Vol. LXXXVI No. 5 May, 1932

The Ecclesiastical Review

A Monthly Publication for the Clergy Cum Approbatione Superiorum

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PUBLISHED BY BOARD OF TRUSTEES
OF THE
AMERICAN ECCLESIASTICAL REVIEW
FOR
THE CATHOLIC UNIVERSITY OF AMERICA

PUBLISHED AT
113 E. Chestnut Street
Lancaster, Pa.

1722 Arch Street
PHILADELPHIA

GENERAL OFFICES
1722 Arch Street
Philadelphia, Pa.

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Subscription Price: United States and Canada, $4.00—Foreign Postage, $1.00 additional
Agents { Great Britain: Burns, Oates & Washbourne, Ltd., 43 Newgate St., London, E. C. 1, England.
Ireland: Veritas Company, Ltd., 7 & 8 Lower Abbey St., Dublin
Australia: W. P. Linehan, 8 Bourke St., Melbourne
Entered, 2 July, 1904, as Second Class Matter. Post Office at Lancaster, Pa., under Act of 3 March, 1879
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THE ECCLESIASTICAL REVIEW

NINTH SERIES.—VOL. VI.—(LXXXVI).—MAY, 1932.—No. 5.

ENTERING THE PRIESTHOOD BY THE DOOR.

THE Instruction of the Sacred Congregation of the Sacraments, 27 December, 1930, concerning the investigation to be conducted before the reception of Tonsure and Holy Orders is a document worthy of "Roma Aeterna". It is the result, not of dreaming about the past, as Cardinal Newman would say, but of clear and practical thinking, based upon the wealth of experience that is stored up in the archives of the Roman Curia. As the document explicitly states, these archives, which undoubtedly contain more real information about human nature than may be found anywhere else in the world, were laid under contribution, and, as a result, the directions given are specific and practical.

It is interesting to note that at a time when the educational world is heralding psychological tests as a new and unfailing device, there comes from Eternal Rome an unpretentious document which has all the earmarks of a practice that is centuries old, but which rather than indulging in modern terms or technicalities unravels with ease and force the most abstruse and recondite of psychological problems. By means of a carefully arranged system which involves close observation as well as self-scrutiny, the Instruction establishes a searching analysis of a young man's intellectual endowments, moral character, inmost thoughts, desires, tendencies, aspirations, but especially —and this seems to be the fundamental point—the rock-bottom honesty and sincerity of his motives.

The aim of the document is preventive. It stands for the sanctity and integrity of the Priesthood. It insists that the

weeding-out process begin at an early stage, to spare the candidate the ignominy of being rejected in later years. One reads between the lines that doubtful cases are to be settled by the axiom, "Pars tutior sequenda est", and the safer part is always to protect the Priesthood from unfit subjects. The decree stresses the most outspoken standards ever set down for the guidance of bishops in the selection of candidates. They are both negative; the one is from S. Scripture: "Impose not hands lightly upon any man" (I. Tim. 5:22); the other from Canon Law: "Let not the bishop confer Sacred Orders on any one unless he is morally certain of his canonical fitness" (canon 973).

The S. Congregation points out the causes of failures in the Priesthood. The predominant cause alleged in appeals for nullity is the lack of a real intention, and this plea is motivated by reasons which are either intrinsic, such as the desire for comfort, wealth, honors, or high positions, and the fear of hard labor or military service; or they are extrinsic, and among these the classical one is grave fear or human respect. All such motives smack of sacrilege and simony. "Who shall stand in his holy place?" Only he who has the firm and sincere intention of choosing the Lord as the portion of his inheritance. This is "entering by the door," in the open, as it behooves the disciple of Him who says: "He that entereth not by the door into the sheepfold, but climbeth up another way, the same is a thief and a robber" (John 10:1). Undoubtedly the shepherds of Christ's flock will joyfully welcome this decree which points out with such refreshing clearness a straight path over territory which offers many difficult problems.

While the grave responsibility of watching and determining sacerdotal vocations affects several persons, still, in the ultimate analysis, it rests upon the shoulders of three, the bishop, the seminary rector and the parish priest. While the interest and influence of all three should be at once fatherly, directive, and discriminating, yet according to the letter and spirit of the decree, to the bishop is assigned the rôle of judge, to the seminary head that of director, and to the parish priest that of father.

In enlisting the services of the parish priest to a greater extent than before, this document harks back to a custom which

prevailed from the beginning, but which the later development of seminaries has somewhat relegated into the background. The pathetic antiphon in the office of St. Lawrence recalls both the custom and the beautiful filial relationship that existed between the youthful deacon and his fatherly friend, St. Sixtus. "Quo progrederis, sine filio, pater? quo sacerdos sancte, sine ministro properas?" It is our purpose briefly to outline here the seven duties of parish priests as they are set forth in the present decree and other ecclesiastical pronouncements.

Fostering Vocations.

It is true, "God doth not give the Spirit in measure" (John 3:34). Yet, since laborers are always needed in the vineyard, we may reasonably suppose that the Divine Paraclete who abides with us forever (John 14:16) never fails to place at the service of the great High Priest, who is with us all days (Matt. 28:20), an ever-sufficient number of vocations to the sacred ministry. There must be some spiritual law of averages in this, as there is in all other matters. If there have been periods and places where vocations were lacking, may we not lay the blame in large measure to the lack of coöperation on the part of those why by reason of their office should assist the Holy Spirit in this important task? Experience confirms this. Our sacramental system postulates the coöperation of secondary causes. As in all works of zeal, we find extremes also in this. True, prudence and judgment are necessary, but on the whole it seems safe to set up the principle: "Melius est abundare quam deficere."

Canon 1333 outlines the duties of the pastors of souls concisely. It exhorts priests, and especially pastors, to bestow special care, not upon boys indiscriminately, but upon those "qui indicia praebeant ecclesiasticae vocationis". Evidently, it is the mind of the Church that the first indication of sacerdotal vocation should come from the Holy Ghost. "Spiritus ubi vult spirat" (John 3:8).

Of course, different men approach their tasks in different ways, but the safer way in the matter of vocations seems to lie in watchful observation rather than in a direct approach. It is presumptuous, however, and generally dangerous, to label youngsters with the mark of a "certain vocation," for on the

one hand it may lead the best of them at an early age to pride and conceit, and on the other, it tends to hamper the work of the Holy Ghost. The grace of God does not operate through outward pressure or advertising but rather by means of the gentle breezes of divine inspiration which is sensed deep down in the recesses of the youthful soul. Usually it manifests itself in a genuine love for the sanctuary and sacred functions, coupled with a quiet unassuming leaning toward piety, a steadfast stand in matters of honesty and virtue, and a love for books and knowledge. The decree mentions the charming triplet: "Pietas, Modestia, Castitas."

There is, of course, need of friendly encouragement, but it is always well to take a lesson from Abraham of old, who laid the wood upon Isaac, his son, and the "two went on together" toward the mountain appointed by God (Gen. 22:6). Boys should learn at an early age that in order to become priests, they must pray for grace, and work for it. The timely reminder that the Priesthood is an extraordinary grace, that it entails a life of obedience and sacrifice, will show in due season whether the subject possesses the necessary qualities of courage and character that make for stability in the Priesthood.

There is some danger, and perhaps a fallacy, in the effort to draw boys to the Priesthood by drawing them to ourselves. Let us imitate, if we can, saints like Philip Neri and Don Bosco, who through their personal charm and affability led youths on to a virtuous life; but the future disciples of the Master should be drilled in motives that are more objective and more enduring. Sentimentality dims the vision and hampers reason, and, besides, our young proteges have to live and battle through a long life after we are dead and gone. Firmness and kindness should blend, but firmness is not undue severity, no more than kindness is sentimentality.

A fundamental requisite in the candidate for the Priesthood, no matter how young he may be, is thoroughgoing manliness. A smooth face should not be mistaken for innocence, nor an emotional temperament for piety, nor a pliable disposition for obedience. It is necessary to sink the plummet deeper until it touches the fundamentals of character. The Priesthood is the glory of manhood. The Saviour wanted first and foremost, men. Peter had his faults, but he had the courage of convic-

tion. Nathaniel was of the rough and ready type, but he was an Israelite indeed in whom there was no guile. Philip was naturally timid and backward, but he asked the Master the most direct and nettling question of them all when he said: "Lord, show us the Father and it is enough." John was the gentlest among the Apostles; but when the acid test came, he showed more fortitude than all the rest.

The Code enumerates four specific duties:

> Arcere a saeculi contagiis;
> Informare ad pietatem;
> Imbuere primis literarum studiis;
> Fovere germen divinae vocationis.

Needless to say, in keeping aspirants to the Priesthood away from the contamination of the world, we should not lapse into the other extreme of raising hot-house plants. We need real boys, who are wide-awake and responsive not only to spiritual influences but also to all the wholesome and legitimate enjoyments of their surroundings. In the words of a distinguished ecclesiastic, we want expression rather than repression. Let the boys be free to indulge in healthy sport: it will absorb their surplus vitality, develop manliness, and keep their hearts clean. In regard to the opposite sex, we want neither woman-haters nor woman-lovers, but gentlemen who know their places at all times. Any sort of familiarity, however, or a marked leaning for the opposite sex, as well as a longing for the dance floor, are definite indications of a vocation other than the Priesthood.

"Informare ad pietatem" is the art of training in piety, not in asceticism. It is achieved by a calm and consistent urging on to virtue and to the simple devotions of the Church. The confessional affords the very best opportunity for this work. Such direction should not however attract the attention or admiration of others, lest it beget self-consciousness, pride and conceit, and retard wholesome growth.

The third obligation, "Imbuere primis literarum studiis", is taken care of in our schools. But what about the old-fashioned Latin class? The work there may be tedious, but it will bear fruit in season, for there is hardly a more efficient means of testing vocations. If a boy must study this ancient, difficult tongue, which holds out anything but a practical appeal, with no other incentive than the Priesthood, it will soon

be seen whether he has the necessary ambition, docility and perseverance. Again, Latin is the language of the Church, and Church discipline makes it an indispensable prerequisite. Apart from the fact that we acquire our ecclesiastical studies through the medium of Latin, there is such an intimate relation between the mechanics of this language and the logical set-up of our philosophical and theological thought that it would be safe to predict, *ceteris paribus,* for the boy who masters his Latin, a successful mastery of the ecclesiastical curriculum. To this may be added the distinct advantage of studying a boy's character in the classroom. All in all, for the zealous pastor here is a rare opportunity of preventing much pain and disappointment on the one hand, and on the other of directing valuable laborers to the vineyard.

The fourth obligation, " Fovere germen divinae vocationis ", is the most delicate of all, for it means direct coöperation with the Holy Ghost in the matter of fostering the seed of the divine vocation. Needless to say, occasional instructions on vocation, or timely references and allusions, in the schoolroom or at the children's Mass, will bear good fruit. But the all-important thing is that a desire for the priestly life and office be engendered and strengthened in the hearts of the young by the priest's own example. " Verbum sonat; exemplum tonat." And this duty devolves directly upon the assistants as well as upon the pastor. If we priests would bear in mind that at the altar, in the pulpit, in the confessional, and in every other place, we are being watched by a hundred little eyes that are seeking an ideal, a hero; eyes that cannot be deceived and that will soon discover if our heart is in our work; if we truly believe what we preach; if we make the Priesthood the finest, bravest and most loyal exemplification of manhood, then indeed would the work of the Holy Ghost be made very easy. Perhaps priests do not generally realize what a genuine compliment is paid to them by a boy or two in the parish whose youthful ambitions and aspirations are crystalized in the simple confession: " I want to be a priest like Father N. N.". Does this not remind us of the heartfelt request of the Apostles, when, after many days of close observation, they came to their Master and said: " Lord, teach us to pray "?

Watching Over the Home.

The decree above quoted makes it clear that the Church demands complete information on the physical, material, and moral conditions of the home and family of the candidate. The purpose is, not that such conditions be improved when the investigation is made, but that they be faithfully reported as they are found, for the candidate is the product of the home as it actually is. All of which tends to bear out the well-known truth, that there are three factors in the making of good priests—the Christian home, the seminary and the diocesan clergy.

As is well known, certain serious physical defects may bar young men from the Priesthood. Hence if there be any hereditary diseases, any mental or moral weaknesses, these should be faithfully revealed. As to material conditions, the Church is not directly concerned about the financial and social standing of the family. But it is important to know whether order and thrift are in the home; how many children there are and how they fare in the world; what is the father's occupation, and how he stands with his fellowmen.

This brings us to the moral conditions which play an even more important rôle in the eyes of the Church. Naturally she is wary lest through greed, pride or other unholy desires the family exert any undue pressure or influence on the candidate. It is the mind of the Church that her priests, like her saints, should be of "piis honestisque parentibus." The family must be in possession of the esteem and respect of the community. As a rule, the whole is told when the candidate can point with pride and affection to a devout Catholic mother, who has reared him in the fear of God; for, beside the grace of God, she is the outstanding factor in the work of leading stalwart Levites to the sanctuary.

Ascertaining the Mind of the Public.

The parish priest is the chief witness of the opinion of the congregation or the public regarding the candidate for the Priesthood (Modus II), and in special cases he may be called upon to solicit the individual opinions of trustworthy persons (Modus III). The Church demands that no one ascend the altar of God unless his reputation be without stain or blemish

in the sight of God's people. "Vox populi, vox Dei." Her mind is revealed in canons 998 and 999, which ordain that the names of candidates for Holy Orders shall be proclaimed in the parish church. Furthermore, in the Pontifical the bishop, before conferring the Order of the Priesthood, makes the solemn demand upon the people: "Si quis igitur habet aliquid contra illos, pro Deo, et propter Deum, cum fiducia exeat, et dicat." Although the parish priest is not required to report officially on the home and public opinion until the time of Tonsure, it is, nevertheless, advisable that he orientate himself on these matters at an early date.

Directing Vocations.

Thus the zealous and vigilant pastor will have acquired a fair insight into the young man's heart, his home, and his life as others see it by the time that the latter is about to take up higher studies. If he finds anything that may develop a serious obstacle to his advancement to Orders, now is the time to settle the issue one way or another, or at least to bring the matter to the notice of those who are to judge ultimately. If, however, the road is clear and straight, and if the young man be firm in his purpose, let the pastor strengthen him; if he be wavering, let him give salutary direction.

Direction at this juncture may force to the front the choice between the Secular Clergy and Religious Orders. Naturally, the parish priest desires his own kind to increase and multiply, and rightly he should. We all, whether seculars or religious, have the obligation of finding laborers who will tend to the ordinary, everyday duties in the vineyard. However, to force all vocations through the same door is as abnormal and irreconcilable with the divine dispensation as it is presumptuous to take this rather delicate task entirely out of the hands of the Holy Ghost. The preference and predilection of the youth comes from God and should be consulted first and foremost. In the Catholic Church there is room for all and work for all, and much of the work has been spoiled and neglected because the workmen were found unfitted for the task.

The pastor will keep a vigilant eye on his former charge, during his years in college or in the preparatory seminary, and especially during vacation time. As the young man advances

toward maturity the duty implied in the words, " arcere a saeculi contagiis ", becomes graver. He can and must now speak to him with more frankness, sternness and decision, emphatically pointing out the inevitable parting of the ways.

Vigilance at Vacation Time.

When the candidate enters the major seminary, he should realize that his hand is " to the plough ". Nor should he look backward unless he is advised or discovers that he has erred seriously in his choice. Uncertainty and hesitation at this time are most dangerous to his progress and well-being. The time has come to trust to the grace of God and to go forward wholeheartedly.

In vacation time grave responsibility rests with the pastor. His duties now amount to close observation and sympathetic coöperation. The Church relies on his judgment. His position enables him to gain a more intimate knowledge of the seminarian's real spirit and character than the seminary authorities are able to acquire.

It is proper that immediately after his return from school the seminarian report to the pastor. The latter will advise with him in arranging his vacation program, his manner of life, and his occupation. The seminarian should be at his service, especially on Sundays and holidays and, when in major orders, at all times.

Whether or not priests should choose seminarians for their daily companions is left entirely to the judgment of the former. If the priest is convinced that his example will profit the young man, let him make the choice by all means; if not, then let him keep him as far away as possible. The latter is still in his formative period which requires plenty of edification, and none of " the wisdom of the wise ".

Official Acts.

The official acts of the pastor consist in the issuing of certificates of Baptism, Confirmation, Parents' Marriage, letters of recommendation to the heads of the institutions and the chancery, vacation letters to the seminary. He is also to supply necessary data for testimonials, in case the candidate enters another diocese; to fill out the questionnaire which the new de-

cree prescribes before the reception of Tonsure; to make public proclamation of the name of the candidate before Sacred Orders, where this practice is in vogue; to enter the name of newly ordained subdeacons in the baptismal records. It stands to reason that the task of making out a comprehensive report before Tonsure will be materially facilitated by means of a filing system to be kept in the rectory where the papers and all other valuable information concerning the candidate can easily be found.

The questionnaire (Modus II) should be studied in the light of the decree, for the latter gives the setting to the former. The opening phrase "Num clericus" indicates that the pastor's judgment is to be guided by the definite standard of the clerical state. There is no longer question of youthful aspirations or uncertain indications. We are dealing with men who have matured and are supposed to know where they stand and what they are about. The bishop's admonition to the new clerics is apropos: "Filii carissimi, animadvertere debetis, quod hodie de foro Ecclesiae facti estis." In other words, a sharp line has been drawn between the "Forum Ecclesiae" and the "Forum saeculi". It is the pastor's duty to report in clear and unambiguous language that those in charge may decide to which side the candidate belongs.

The importance of the different questions varies. Some may condemn the candidate outright; others may create serious doubt. Some point to the right side of the line and inquire into positive qualifications; others, pointing left, seek to establish whether there be a marked leaning to the "saecularia desideria", or no.

To the former category belong the first six questions which inquire whether or no the candidate manifests a love and zeal for the exercises of piety and liturgical worship, for apostolic work and studies. It is the scrutiny of the heart and the mind. The next seven questions examine the candidate's leaning toward various forms of worldliness. They seek to detect any evidence of impropriety, levity, profanity, or anything reprehensible in his external appearance, his reading, conversation, moral conduct, doctrine; in his relation to the other sex, to drink, to comfort and worldly pleasures generally. Evidently the purpose is to determine not only if the candidate have his

passions under perfect control but also if he possess that eminently necessary adornment of the priest, good judgment.

Number fourteen deals explicitly with two fundamental virtues in the Priesthood, charity to all and humble submission to authority. The questionnaire closes in the two final questions with an inquiry into public opinion and the home of the cleric, as was explained above.

Period of Major Orders.

The above report should be kept up to date as the seminarian advances from order to order, for it may be called for again. In his solemn oath before subdeaconship the cleric makes an avowal and a promise. He confesses that he is acting with full freedom and that he clearly understands the orders and their obligations. He promises that he will faithfully obey his lawful superiors, observe the obligations of the clerical state, especially the law of celibacy, and strive to set the high example demanded of the priests of God. After receiving this order, the Levite returns to his pastor a new man. His name has been recorded in the official registers of the Church: "N. ad Titulum Ecclesiae N.". He is deeply conscious of the fact that the period of his youth and independence expired when the bishop said: "Hactenus enim liberi estis . . .". He clasps in his hands the breviary, which is to be not only the "onus diei" but also his delightful "meditatio die ac nocte". If the pastor were to set up for him a rule by which he should live and by which he should be judged, there would be none better than the exhortation of Paul to Titus: "In omnibus praebe te ipsum exemplum bonorum operum, in doctrina, in integritate, in gravitate" (Tit. 2 : 7).

The pastor has more reason now than ever before to choose the young levite as his companion, in his study, in the sanctuary, and even when reciting his office. His fatherly advice, his practical hints and suggestions are now received with avidity; and why should not the elders in the Priesthood endeavor to strengthen their successors with the wealth of their invaluable experience?

This fatherly, constructive advice and influence cannot be learned from books; it should continue until the levite is ready for the final step. The last few weeks are fraught with rare

blessings and if the pastor is a true father he will gladly shoulder the burden of all worries, appointments and material preparations for ordination and First Mass, so that the ordinand may spend all his time with the Divine Master whose disciple he is to be.

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St. Bonaventure, New York.

THE SHATTERED HOME.

THE spread of divorce both here and abroad is linked with the agitation for atheism, sterilization, companionate marriage and birth control. In England, it was discovered that in forty per cent of the divorce cases the disputing couples were childless, and in thirty per cent they had only one child. Deliberate childlessness occasions loneliness and discontent. Children create a bond which influences parents to think many times before they give way to divorce, and in this way develops the tolerance of each other's faults and characteristics without which no marriage can be happy.[1]

According to Mrs. Sorokoumowskaya, quoted by Frederick Funder, 60.7% of the Soviet marriages in European Russia ending in divorce are childless; 23.6% have one child; only 4.8% have 3 or more children.

The census report of the United States for 1928 gives 56.6% of the divorces as reporting no children (whilst 6.5% of the divorces gave no report as to children); 20.5% reported one child; 9.5% reported 2 children; 3.9% reported 3 children; 1.7% reported 4 children. These reports confirm the fact that divorce and race suicide go hand in hand, that race suicide paves the way for divorce and that the presence of children staves off divorce. As the number of children increases, the prospects for divorce decrease, no matter what the real reasons for divorce may be.

Divorce might aptly be called America's nightmare. No longer can we point the finger of reproach at 52,000 annual divorces in Japan, when we ourselves have about 200,000 yearly. We cannot deride the notorious laxity in the Scan-

[1] See *The New Age Illustrated*, December, 1927, p. 112, in "Why Does Genius Shirk Parenthood?"

dinavian countries, when our own state laws cater to the divorce market. We cannot smile at Yucatan, C. A., or Sonora and Sinola, in Mexico, when we consider Chicago, Atlantic City, Miami, Los Angeles, Seattle. What is Paris to-day compared with Reno, Nevada, as far as the divorce market goes? And Paris, repenting of her past folly, judges foreign cases according to the laws obtaining in the home state.

Divorce is rampant in all the States except South Carolina, which grants none at all. Outside of Russia and Mexico, in no aggregation of civilized states is divorce so cheap and so easily obtained as in our own states.

The ten states having the largest *percentage* of divorces per 1,000 married population in 1928 are Nevada, 83.19; Texas, 8.41; Oklahoma, 7.96; Oregon, 6.67; Wyoming, 7.41; California, 7.24; Missouri, 6.68; Washington, 6.63; Montana, 6.22; Florida, 5.99. The ten states having the largest *number* of divorces are Texas, 18,073; Illinois, 15,703; Ohio, 14,643; California, 14,431; Missouri, 10,089; Michigan, 10,531; Pennsylvania 7,957; Indiana, 7,885; Oklahoma, 7,762; New York, 5,293.

As will be shown more at length later, the cause of this laxness, apart from moral factors, is lack of uniformity in marriage and divorce laws as well as in court procedure. Apart from laws based on the inviolability of marriage there should be a uniform marriageable age, uniform time between application for a marriage license and the granting thereof: uniform prohibition of absolute divorce, even for adultery; uniform denial of the right to remarry, especially for the guilty party; uniform residential requirement for both marriage and separation; uniform lapse of time between application for separation and granting thereof, and last, but not least, uniform reasons or causes for separation, proved not assumed, tested by proofs and witnesses.

Without formality, all residential requirements, all waiting periods between application and granting of divorce decrees, and other restrictive elements prove ineffective. Of what value are restrictions by law when these are counterbalanced by loose court practice? When courts grind out divorces at the rate of one every few minutes, vying as it were with Soviet practice, restrictive laws become a mockery. In the face of

divorce mills manufacturing evidence and dispensing with real causes and honest witnesses, divorce trials are a farce. The fashion of divorce is even advertised by announcement cards, a fad that apparently originated in Chicago.

All these factors tend to commercialize divorce. Hence states and cities compete with one another in creating a market for divorces. The divorce mills in Reno, Chicago, Atlantic City, Miami, Los Angeles, Seattle seem to compete in commercializing easy and quick divorce. Reno, Nevada, is the scandal of America. With only 18,000 inhabitants in 1929, it granted 2,071 divorces and 35 annulments. Reno thrives on its divorce business, most of which comes from other states. The former requirement of three months' residence is reduced to *six weeks*. An attempt is made to further reduce it to one month and to grant divorce to outsiders by mail. In some cases witnesses are dispensed with. Of the 8 causes of divorce, the one usually trumped up is cruelty. In practically all cases the real reason is a third party, since nearly all remarry.[2]

In 1923 Chicago had one divorce for every five marriages. In 1923 there was unearthed a divorce mill operated by an attorney and a detective, who contracted on the payment of a sum of money to obtain divorces for their clients, within *three* weeks, by the manufacture of false evidence.[3] Ever since the infamous perjury case of Municipal Chief Justice McGannon in 1921, the Cleveland courts have been waging war on perjury. A divorce mill operated by Jones Abrams, an attorney, was discovered by Common Pleas Judge Carl Weygandt in December 1927 and in April 1928. Judge Weygandt declares that the week Mrs. Seidenfeld was given a one-year sentence, eight of the uncontested divorce cases set for a certain Saturday morning in one court room were withdrawn. Abrams was judged guilty of inducing one Abraham Goldman to *testify falsely* as the landlord of the Rochester woman who twice within one year sought divorce in a Cleveland Court. Two other persons from Rochester wrote to the Judge telling him that they each had been divorced by their mates, even though the latter had not lived a day in Cleveland.

Up to recent years divorce prevailed in an alarming extent only in pagan countries, notably in Japan. In 1923 England

[2] See *American Magazine*, October, 1930. [3] See *America*, 12 Jan., 1924.

counted one divorce to 400 marriages; to-day she witnesses an alarming increase. In 1927 Canada broke about 600 matrimonial ties, while Chicago with 38% of the population of Canada had 14 times as many divorces as Canada, that is, about 8,482; and the entire United States unleashed about 192,037. In 1928 Cook County, including Chicago, witnessed one divorce to four marriages.

The rate of increase of divorce in our country is appalling. It can be studied best in comparison with the marriage rate over the last 40 years.

Year	*No. of Marriages*	*No of Divorces*	*Per cent*	*Rate of Divorce*
1890	542,537	33,461	5.9	1 to 16.2
1900	685,284	55,751	7.9	1 to 12.3
1906	853,290	72,062	8.2	1 to 11.84
1916	1,070,684	114,000	10.6	1 to 9.43
1922	1,134,151	148,815	13.1	1 to 7.8
1923	1,229,784	165,096	13.4	1 to 7.5
1924	1,184,334	170,952	14.4	1 to 6.88
1925	1,181,838	175,449	14.8	1 to 6.73
1926	1,202,574	180,853	15.0	1 to 6.65
1927	1,201,053	192,037	16.0	1 to 6.25
1928	1,182,497	195,939	16.6	1 to 6.03
1929	1,232,559	201,468	16.4	1 to 6.12

No wonder that Ella Bennet, writing of the evolution of divorce, says that in 1870 it was a disgrace; in 1880 a calamity; in 1890 a misfortune; in 1900 a nuisance; in 1910 a custom; in 1920 a habit, in 1930 a necessity. We can blame no one but ourselves. Instead of teaching ourselves and our children the beautiful art of self-mastery based on religion and prayer, we employ 3,000 judges to defy God's holy law and to wreck 201,468 homes; many of which would be comparatively happy, were it not for the siren of divorce, alluring the disillusioned to forbidden waters.

Pagan Origin and Protestant Revival

Throughout the Christian era there has been a conflict between the old pagan state laws allowing divorce for many causes other than marital infidelity, and the strict law of Christ allowing separation on the score of adultery, but prohibiting absolute divorce in consummated Christian marriage. Even the civil laws of Constantine, Justinian and Justin II were very liberal in granting divorces for reasons often not serious.

The Greek Church yielded to a great extent to the civil divorce laws of Justinian and Justin. Previous to the Greek Schism, the Gospel teaching against divorce was upheld by the Apostolic Canons, St. Chrysostom, and the Trullan Synod of 692 which, under pain of censure, forbade divorce by mutual consent on account of mutual dislike. Mahon in his booklet, *The Church and Divorce,* writes: "This was the first resolute stand of the Greek Church against the civil law and it struggled to maintain its independence of the civil law until the ninth century, the period of the Photian schism." Ever since then the Greek Church slavishly followed the lax Justinian code granting divorce for many reasons. To-day, according to Zhishman, the Greek and Oriental Churches separated from Rome, even in official ecclesiastical documents, permit remarriage, not only in *authenticated* cases of adultery or death, but even in well-founded *suppositions* of death or of adultery. High treason, criminal attacks on life, frivolous and suspicious moral conduct, intentional abortion, prolonged disappearance, incurable lunacy, entrance into religion with the other's consent, are considered sufficient reasons for divorce and remarriage. Any convert from the schismatic Greek or Oriental Churches is obliged to subscribe solemnly to the Tridentine doctrine against divorce and remarriage, before he can be reunited to the Roman Catholic Church. This very caution is added evidence of the extreme looseness of the modern Greeks and Orientals.

The Protestant chaos in divorce dates back to Erasmus of Rotterdam, whose break with Catholic tradition opened up the flood-gates of laxity and endless catering to human weakness and perversity. He laid the egg that Luther hatched. He thought St. Paul would not have been so strict as St. Jerome was with Fabiola. He spread the loose doctrine of divorce on grounds of discord and even incompatibility of temperament. Luther and the "Reformers" pounced upon this concession to human weakness and twisted St. Matthew (Chapters 5 and 19) and St. Paul (Rom. 7: 2-4) in a way to contradict the clear doctrine of Christ, as contained in St. Mark and St. Luke, and permitted divorce not only on grounds of adultery but also for other grave crimes. Calvin admitted only one cause, fornication, but he decried the Catholic law as unjust

because it forbade the innocent party to remarry. In a general way, Protestants made marriage a purely secular affair, gradually relegating all jurisdiction in matrimony to the civil law, themselves merely approving the marriage. Hence there was no development of Protestant Church law, but rather a downward trend toward Pagan liberalism and extreme laxism, which gains momentum with the years.

In spite of Luther's laxity in doctrine, he was loath to permit the bigamous marriage of Philip of Hesse. Fearing Philip's threat to go over to the Roman Church, he in company with Melanchthon, Bucer and five preachers from Hesse, signed the document of "dispensation" in March, 1540. Henry VIII, following the Erasmian idea of divorce, rather than public bigamy, as Luther advised, gave the divorce mill a practical turn in Christian England. Had he foreseen the tremendous impetus it was to receive in the English-speaking world, where divorce scandals are far more numerous than they are, for instance, in Latin America, Portugal, Spain, Italy, Ireland, Poland, he perhaps would have been contented to go to the grave childless and heirless rather than allow his mad love for Anne Boleyn, whom he married in January of 1533, to set so detrimental a precedent. Modern Protestants, including the Anglicans, look upon Christ's solemn law against divorce as a mere ideal to be striven for, but often unattainable.[4]

The Catholic Stand.

The Catholic Church has always legislated against divorce. Thus she plainly follows the injunctions of Jesus Christ. According to the nineteenth chapter of St. Matthew, Christ, acting as the Divine Legislator, allows separation for fornification, but he condemns as adulterous any attempt at remarriage to another.[5] St. Paul writes: "To them that are married, not I, but the Lord commandeth, that the wife depart not from her husband, and if she depart, that she remain unmarried, or be reconciled to her husband. And let not the husband put away his wife . . . A woman is bound by the law as long as her husband liveth; but if her husband die, she is at liberty; let her marry to whom she will; only in the Lord".[6]

[4] See Gore, *Divorce in the New Testament*, pp. 42-46.

[5] See Gen. 2:23; Matt. 19:3-9; Mark 10:11-12; Luke 16:18; Rom. 7:2-3.

[6] I Cor. 7:10, 11, 39.

The Great Fathers of the Church and the Popes have consistently condemned absolute divorce and remarriage. Among the former we mention Saints Jerome, Augustine, Gregory Nazianzen, Chrysostom. Among the Popes are:

(1) A. D. 401-417 —Pope Innocent to Bishop Exuperius of Toulouse; forbade remarriage of both innocent and adulterous party.

460 —Pope Leo to Bishop Nicetas of Aquileia demands certainty of death of one party before remarriage to another.

601 —Pope Gregory I to Theodista: denied and anathematized the civil doctrine that marriage is dissolved by the entry of one party into religion. (Present Canon Law states that of the marriage *has not been consummated* and one party is baptized, it *is* dissolved by the solemn religious profession, and it *can* be dissolved by the Pope for a good reason.)

862 —When the synods of Aix-la-Chapelle and Metz, under royal pressure, granted Lothair permission to divorce Theutberga, because she had been guilty of incest before marriage, and to marry his concubine Waldrada, Pope Nicholas forbade Lothair to marry Waldrada, even after Theutberga's death. The two bishops appointed to discuss the matter at Aix-la-Chapelle drew the conclusion that adultery after marriage does not break the bond and that fornication or incest before marriage does not

invalidate it. If every sin committed before marriage were to dissolve the bond, few marriages would stand.

1098-1119—Pope Urban II and Paschal II opposed the divorce of Philip I of France.

1198-1216—Celestine III and Innocent III opposed the divorce of Philip II of France.

1534—Clement VIII declared (vs. Cranmer) the validity of Henry VIII's marriage, excommunicated Henry VIII for divorcing Katharine and marrying Anne Boleyn.

(2) Some of the more important councils legislating against divorce were:

A. D. 300 —Elvira allowed dismissal of adulterous party, but not remarriage. Silent about the innocent party. Same is true of Councils of Arles (314); Angers (453); Vannes (465); Council of St. Patrick in Ireland (456).

506 —Synod of Languedoc excommunicated those who, without previous appeal to the provincial bishops, dismissed their partner to marry another.

673 —C. of Hereford, England, commanded parties lawfully separated to remain separated or be reconciled.

681 —C. of Toledo excommunicated such as dismissed their partners for causes other than adultery.

744 —Synod of Soissons ruled that neither husband nor wife may dismiss the other except for

adultery. Both innocent and guilty were forbidden to remarry another party.

829 —Synod of Paris forbade the innocent party to remarry during life-time of the guilty partner. Bishops were ordered to collect and burn the spurious penitential books allowing divorce.

895 —C. of Tribur forbade the husband to remarry in case the adulterous wife, by taking refuge or asylum in a church, escaped death at the hands of her husband. (It seems that the civil law allowed the husband to kill her if she failed to reach a sacred refuge.)

1060—C. of Tours excommunicated the man who dismissed his wife without previously putting the case before his bishop.

1072—C. of Rouen forbade remarriage in case of adultery or entry of one party into religion.

1535—Council of Trent declared solemnly: The Church does not err, when, according to the evangelical and apostolic doctrine, she teaches that marriage is not dissolved by the adultery of either spouse and that a new marriage is not permitted either to the innocent or to the guilty party during the lifetime of the other.[7]

Present Canonical Legislation.

The new canon law decrees that the matrimonial bond is created only by valid matrimony and is by its very nature a

[7] See *Catholic Encyclopedia*, Vol. 5; cf. Mahon, *The Church and Divorce.*

perpetual and exclusive bond, which means that it cannot be broken by divorce nor be shared by another (Can. 1110). A valid marriage, ratified and consummated, cannot be dissolved by any human power nor by any cause except death (Canon 1118). But when the marriage has *not been consummated* by the conjugal relation and at least one party is baptized, it *is dissolved* by the solemn religious profession, and it *can be dissolved* by a dispensation from the Holy See, granted for a just cause, at the request of both parties or of only one party, although the other be opposed to it (Can. 1119).

A legitimate marriage between two non-baptized persons is dissolved in favor of the faith by the Pauline Privilege.[8] Briefly, this means that if one party is converted to the faith and in consequence is deserted by the infidel party who refuses the former's appeal to be converted and baptized, or at least to live peacefully and without contempt of the Creator, the convert has the right to enter a new marriage with a Catholic, provided he himself was not, after his conversion and baptism, the cause of the other party's desertion. The bond is dissolved only when the converted party actually enters a new marriage (Canons 1120-1127).

In Canon 2356 the Church decrees the following punishment for such as break the above mentioned laws. "Bigamists, that is, those who in spite of the conjugal bond, attempt another marriage, even a civil one, are by that very fact infamous (in bad standing), and if, spurning the admonition of the bishop, they continue to live together in such illicit fashion, according to the gravity of their guilt, they shall be excommunicated or personally interdicted" (Can. 2356).

The Third Plenary Council of Baltimore (No. 124) decreed that Catholics in the United States are forbidden under pain of grave sin to apply for civil divorce. If the Catholic party or parties subsequently *attempt another marriage* they incur *by that very fact* the penalty of *excommunication, reserved to the Ordinary* (bishop) of the diocese. In some dioceses, to seek a civil divorce is a reserved sin. In the Cleveland diocese, for example, any Catholic who, without previous permission from the bishop, applies for a civil divorce, becomes guilty of grievous sin, which is reserved to the bishop. Ignorance of the

[8] Cf. I Cor. 7: 12-15.

reservation or of the sin does not excuse from incurring the reservation. Hence the priest has no power to absolve, except by dispensation from his bishop. Canon law grants power over diocesan reserved sins to pastors during the entire period of Easter duty and to missionaries during a mission. (Can. 899 and 900). This power does not extend to papal reserved censures; for example, the excommunication incurred by marriage before a Protestant minister or by effective abortion, either of which may be connected with divorce. Canon law reserves these cases to the bishop, who may in turn grant it to his deans, without necessity of recourse in individual cases.

Civil Legislation.

Civil divorce laws in the United States are hopelessly at variance in the different states. Senator Capper says there are forty-eight varieties of divorce laws and forty-nine varieties of marriage laws. South Carolina is the only state that strictly forbids divorce. New York and the District of Columbia permit divorce on the sole ground of adultery. New Hampshire allows fourteen grounds. Eight states do not recognize the laws of other states, at least not unconditionally. Seventeen states have no marriageable age. In nine states the age is 12 and 15; in three states it is 14 and 16; in another state it is 13 and 14 respectively. Most states prohibit the issuance of license to marry under the specified age without parents' consent; but 20 states prescribe no penalty, if the license is granted without the required consent.

In most states after a divorce is granted, both parties may remarry, no matter how unfaithful or cruel the person who caused the divorce may be. In New York and some other states the court may forbid the guilty party (the one whose crime was cause for divorce) to remarry during the lifetime of the innocent party. In Pennsylvania and some other states the marriage of the guilty party with a paramour during the lifetime of the innocent party is null and void.[9]

A uniform federal marriage and divorce law based on the natural and divine law would put a stop to the hopeless confusion and prove beneficial to society and religion. The superiority of the Catholic position is evident to reason. But

[9] See Smith, *Catholic Encyclopedia on Divorce*, p. 67.

will human nature, weak and perverted as it is by the heritage of sin and evil custom, give in to the age-old wisdom of the Catholic Church? Will it yield in the presence of so much conflict and diversity of aims and creeds? The Catholic stand has worked out very successfully in Italy, Spain, Portugal and Ireland. In these countries no absolute divorce is allowed. The same holds true to a great extent of those South American states where only limited divorce or separation from bed and board is permitted. We refer to Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, Paraguay, Peru, Uruguay and Cuba. If the Southern countries can get on without divorce, why cannot the Northern, who claim moral superiority? If the Latins, the Celts and the Slavs do not need divorce, why should the Anglo-Saxons and Nordics? In matters of marital chastity and fidelity, of unity and indissolubility of the marriage bond, they evidently have an inferiority complex. They seem to be proud of it. At least one sees few signs of shame and repentance.

Causes of Divorce.

"Aside from the incontrovertible perversity of human nature," says Senator Capper of Arkansas, "there is one reason for the many broken homes—the ease with which the unfit and the immature are permitted to marry—and the abandon with which divorce is granted in some states which, if it continues, will in time disintegrate family life and the nation." The root of the evil, however, lies much deeper. Our marriage and divorce laws have failed lamentably because they cater to expediency and ignore the fundamental moral law. Society cannot be divorced from morality nor can morality be divorced from religion. Just as moral problems are fundamentally religious, so too social problems are basically moral ones.

The phenomenal increase of divorce is paralleled by a loosening of morals in other respects. It is impossible to tabulate the increase in race suicide, companionate and trial marriage, free love. It is hard also to get complete statistics even on illegitimate births, since according to E. S. Haynes the latter statistics exclude adulterine bastardy. Easy divorce laws were supposed to do away with illegitimacy. They have however utterly failed in Berlin, in Stockholm, in Austria, in Uruguay.

In 1924, Berlin's rate of illegitimate births was roughly 15 per cent; Stockholm's rate was 27.7 per cent in 1926. Sweden as a whole, including the sparsely populated agricultural districts, had a rate of 15.9 per cent in 1914; 15.4 per cent in 1921; 14.6 per cent in 1925. The decrease was scarcely noticeable, although Sweden is supposed to have "most satisfactory" divorce laws.

In 1910 Austria did not permit divorce at all. We are told that Austria had a higher rate than any other European country. As a matter of statistics Austria's rate was 3 per cent below Sweden's. In 1907 the rate was 12.7 per cent and in 1913 it was 11.6 per cent. It is a safe inference that the newfangled divorce laws have not decreased the rate but rather have increased it. Perhaps other factors such as post-war poverty and depression were partial causes of this supposed increase. Statistics are lacking to verify the supposition.

Montevideo, Uruguay, which formerly forbade divorce, passed a new law in 1908 facilitating it. The upshot was an increase of about 8 per cent in 5 years. From 1914-1919 the rate increased as follows: 20.98, 22.88, 24.52, 27.14, 28.36 per cent.[10]

Another concomitant evil is the ever-decreasing duration of the marriage tie. More than two-thirds of all divorces granted in 1928 concerned couples married less than ten years; only about 10% had been married over twenty years. Judge Sabbath's conclusions concerning an increase in the latter class are unwarranted in the face of general statistics. They would be terrible, if they were true, even of the 31,000 cases he reviewed in Illinois. Speaking of the class under ten years, we find that they include 66.9% of adultery cases, 71% of those granted for cruelty, 60.3% for desertion, 59% for drunkenness and 68.7% for failure to provide. One-sixth of all the marriages fail and 70% of these fail before the tenth year. What a sad commentary on the un-Christian ideals of to-day.

During the last forty years one finds an increasing proportion of divorces granted to women. The 66⅔ per cent in 1887 increased to 71.4 per cent in 1928. Does this mean that the moral failure of marriage is attributed to woman's increasing hunger for independence, or is it merely the effect of laws

[10] See Paulist Pamphlet, *Catholics and Divorce*, by Thurston.

favoring women by granting them more legal grounds for divorce? Probably the latter reason predominates, at least as a partial cause. Do husbands whose demands for divorce have decreased, give their wives less occasion for seeking divorce? We think not. For although a man realizes his duty to support his wife and treat her kindly and above all loves to remain with his children, nevertheless he might, for all that, make life miserable for her by his moral conduct. Considering not only the moral but likewise the social, cultural and domestic phases, in relation to the moral side, we consider the actual blame to be about equally divided. The very nature of the case, as far as mere legal causes are concerned, favors the wife, which fact does not throw all or even most of the moral blame upon the husband. It is likewise impossible to determine in a given case, where the wife actually applied for the divorce, whether the husband did not also desire it. Whenever both parties favor divorce, it is probable that the wife will make the application. If the wife was guilty of adultery and the husband of cruelty, naturally the wife's charge of cruelty will reflect less unfavorably on both than the husband's charge of adultery. The husband might also be slow in accusing the wife of adultery, because he fears a counter-charge. If both desire a divorce, why shouldn't they go about it diplomatically and secure it on a charge less dishonorable than adultery? The writer believes that adultery causes more divorces than are allotted by statistics and that cruelty and desertion occasion less. Cruelty and desertion are frequently the result of adultery. They are also more convenient and less unfavorable charges. Adultery, even in our day, is more disgraceful. Of the 16,217 divorces for adultery granted in 1928 we find that 8,908 were granted to women and 7,309 to men. The writer believes that the statistical proportion is far from being an index of proportional guilt, since the wife more easily condones adultery than does the husband, although the latter, even by statistics, is more frequently guilty of this charge. The wife who desires a divorce from an adulterous husband can get it more easily and less disgracefully through a charge of cruelty, desertion, failure to provide—one or all of which may easily follow in the wake of condoned adultery.

As far as legal charges go, man is more frequently guilty in all the other cases, even desertion.

Of all the divorces in 1928 granted for.....	cruelty	77.8%	were granted to women
	desertion	58.3%	" " " "
	adultery	54.9%	" " " "
	drunkenness	92.8%	" " " "
	neglect	100 %	" " " "
	combination of above causes	87 %	" " " "
	minor and unnamed causes	73.7%	" " " "

Such statistics must be interpreted in the light of the law and court practice, both of which favor women. They must be understood in the light of modern marriage and divorce ideas, which are really the basic conditions favoring the wholesale increase of divorce. Woman is taking advantage of the modern marriage muddle. We can blame her most when she acts for selfish motives, when she trumps up reasons, when she steals another's love or robs her children of their father. She is less blameworthy when she seeks separation to free herself from moral slavery. (A Catholic must first seek permission from the local bishop). But then she does not jump from one frying-pan into another. She does not fall a victim of modern sex-experimentation. Man, on the other hand, increasingly opposes divorce, because it severs not only the marital relation but likewise parental ties. In 36.9% of all divorces there are children and the divorce could usually put the children under the mother's care. In his struggle for existence, in his fight against sin, man needs to lean on the strength and comfort of innocence at home. He might suffer the loss of conjugal affection, but he cannot thrive without filial love.

Modern Trends.

The modern trend might be clarified by a comparison of the divorce *rate* during forty years with the actual *numbers* of the last five statistical years. On the whole, the forty-year period witnessed a decreased rate in adultery, desertion, drunkenness. An increased rate was noted in cruelty (real or alleged), in the neglect to provide and in the minor causes taken as a whole. The minor or subsidiary causes comprise felony, impotence, insanity, imprisonment, incompatibility of temper, mental incapacity, pregnancy before marriage, voluntary separation, and various unreported causes. The census report follows:

PER CENT DISTRIBUTION BY CAUSES.

Year	1887–1906	1916	1922	1923	1924	1925	1926	1927	1928
	%	%	%	%	%	%	%	%	%
All Causes	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Adultery (decreased)	16.3	11.5	10.9	10.5	10.1	9.8	9.3	8.8	8.4
Cruelty (increased)	21.8	28.3	34.5	35.4	37.2	37.9	38.5	40.8	40.6
Desertion (decreased)	38.9	36.8	32.8	33.2	32.9	31.8	31.8	31.0	30.2
Drunkenness (decreased)	3.9	3.4	1.0	1.3	1.3	1.4	1.5	1.7	1.7
Neglect to Provide (increased)	3.7	4.7	4.2	4.0	3.7	3.7	4.0	4.2	4.1
Above Causes in Combinations (decreased)	9.4	8.6	8.7	7.6	6.9	7.6	6.4	4.9	6.3
All Other Causes (increased)	6.1	6.8	7.8	7.9	7.9	7.9	8.5	8.6	8.7

The following table considers the number of divorces for the last five statistical years and is given by way of indicating the more recent proportional changes. One notes, for example, that the decrease in adultery cases is not so noticeable as in former years; cruelty, as a cause, continued to increase; desertion swerved back and forth, actually increasing in numbers since 1925, although decreasing in rate. The reason for this is the fact that the increase in desertion was not so great as the total increase. The decrease in rate is not an absolute decrease (in numbers), but only a relative decrease (in proportion to the total increase). Hence the decrease in rate is slightly misleading. It is a decrease only in relation to the whole number of divorces for the year. Actually desertion increased, though the increase was considerably less than that for cruelty, as the following table will show. In round numbers, cruelty cases increased by 15,400, whilst divorces for desertion increased by 2,500, between 1924 and 1928. Drunkeness as a cause decreased from 3.9% in the 1887-1906 period to 3.4% in 1916 and to 1% in 1922. From 1922-1928 it showed a steady but slight increase. Neglect to provide swerved back and forth with a slight general increase, especially since 1924. The minor causes witnessed a steady though slight increase during the entire forty-year period.

The statistical number and causes of divorces from 1924-1928 are given in the following table:

Number of Divorces	1924	1925	1926	1927	1928
Total of Divorces that Reported the Cause	168,312	173,480	179,397	188,685	192,342
Adultery	16,932	16,985	16,710	16,658	16,217
Cruelty	62,529	65,698	69,055	77,036	77,998
Desertion	55,380	55,106	57,003	58,421	57,996
Drunkenness	2,217	2,429	2,774	3,216	3,339
Neglect to Provide	6,232	6,333	7,092	7,840	7,883
Combination of Above Causes	11,645	13,258	11,476	9,267	12,129
All Other Causes Including Causes Not Reported	13,337	13,681	15,287	16,247	16,780

From these comparative statistics, the moral collapse of civil marriage is quite evident. Were it not for the fact that over one-fifth of our population are Catholics and hence not in the market for divorce, our country would have the unenviable number of a quarter million divorces a year. As it is, we have over 201,000. Were it not for the high-minded Catholic Church opposition to divorce and her sacramental aids to fidelity and loyalty in married life, our civilization would be doomed. "It took," says the Rev. Mr. Gwynne, "more than 500 years for ancient pagan Rome to reach the degeneracy of the latter republic in the matter of divorce. It took less than 300 years for Christian America to reach the degeneracy which ranks us lower than any other nation in Christendom and is scarcely exceeded by non-Christian Japan."[11] Since these lines were penned, Bolshevik Russia has easily taken the lead among so-called civilized nations. Her reactions are worthy of serious study. According to Mrs. Sorokoumowskaya, in the *Moscow Review,* for every 1,000 married persons in the European Soviet states there are 229 divorced boys between 18 and 19 years of age; 169.01 divorced girls between 16 and 17; 199.61 divorced girls between 18 and 19. In other words, 598 out of every 1,000 married persons are divorced before they reach the age of twenty.

If we remember that 60.7% of these Soviet marriages are childless, and 23.6% have only one child, we can readily see

[11] See *Divorce in America under State and Church,* p. 139.

the failure and the folly of Soviet marriage and divorce laws. Russia in making marriage a mere matter of identification and registration and allowing relationships to be established by the simple statement of witnesses, without registration, should be a deterring example. Equally obnoxious are the requirements for divorce. The reasons for applying need not be stated. The mere declaration of intention by one or both parties suffices.

From 1900 to 1928 we had 3,297,913 divorces involving 6,595,625 adults and almost the same number of children. Bolshevist Russia abolished marriage because it is Christian; the United States sanctions divorce, despite the fact that it is pagan. What the Russian leaders' hatred of God accomplished, has been almost duplicated by American irreverence for the marriage bond.

Evil Effects.

If anything should condemn divorce, it is the dreadful effect it has upon the children. Of the total number of American divorce cases in 1928, 36.9% involved children. The home life of 126,578 children was disrupted. From 1924 to 1928, divorce separated 586,651 children from either father or mother. From 1900 to 1928 the divorce evil affected about six million children. Little children in the formative years of their lives are thrown upon the streets, where they become the prey of human vultures. A fond mother's care, a father's provident hand are conspicuous by their absence. Nothing in later life can compensate for this loss. The roses and lilies are too often choked amid the briars of the wayside. Worse than orphans, the children of divorced parents fail to find in them trusty teachers and guides on life's difficult path. Instead of growing up as God-fearing children and honest citizens, they have nine chances out of ten of becoming crooks or criminals, harmful to themselves and to the state at large. Russia's hordes of wild children is a patent proof of our contention, as mentioned elsewhere. Are we seeking to emulate her tragedy? While 40% of the boys in crime in this country are products of broken homes and 90% of the broken homes are products of divorce, we are confronted with the spectacle of American legislation fatuously attempting to encourage the

divorce evil for the sake of financial gain. A tragic state of affairs.

Home life is destroyed; the sanctuary of parental and conjugal love is defiled; filial obedience is crushed; reverence for divine and civil authority is extinguished. Divorce opens up the avenues of unrestricted self-indulgence, to the moral and social ruin of mankind. Divorce is not a remedy for the ills of married life. The easy and unwarranted access to divorce is rather an incentive to foolish and sinful alliances, a provocative of family and social disorders, a preventive of well-ordered living. Divorce, like a cancer, is eating out the vitals of moral and social well-being. Men and women must learn to keep their eyes open before marriage and to close them occasionally after the irrevocable decision. They must be ready to foresee and forestall difficulties, or, if this be impossible, to bear them. As long as human nature is imperfect, as it is and must be, there will be incompatibilities, hardships and obstacles to overcome or endure. Before the modern leprosy of divorce, man and wife made an effort to patch up their differences and to be contented, if not, in a certain measure, happy. God knew the fickleness of man and, in order to uphold and strengthen human nature against its own weakness and selfishness, He decreed marriage to be indissoluble. Divorce, a nice word for free love, tends to unleash the animal in man and to destroy clean, noble living. "As to the terrible tragedies of married life, they are as nothing," says Chesterton, "compared with those of free love. Byron, De Musset, George Sand, Swinburne and the neo-pagan poets are all one long wail of despair over the tragedies of a man with his mistress."

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THE RIGHT TO ABSOLUTION.

IT has always been held in the Church that the relation between confessor and penitent is a quasi-contractual one, so that a confessor is bound in justice to concede absolution to a rightly-disposed penitent who seeks it *rationabiliter*. It seems certain that the perpetual denial of absolution for certain sins in the early Church was only the denial of public absolution from censures and public penances, and not of sacramental absolution.[1] But, whatever may be said of this, once the Church took official notice of the matter and legislated therefor, the obligation on the part of the confessor to absolve a rightly-disposed penitent was recognized as one of justice. As far back as the Decretum Gratiani, in the year 378, we find it stated that "when a sinner, realizing his wound, brings it to the physician (namely the confessor) to be cured, there is no need of the rod, but of a spirit of kindness".[2]

It has always been maintained, of course, that those who come to confession without the requisite dispositions of supernatural sorrow for their sins, or without a firm purpose of amendment, must be refused absolution until they can adduce some evidence of these necessary dispositions before the sacred tribunal. Such dispositions have always been the *sine qua non* of forgiveness, and several condemnations have been fulminated by the Apostolic See against confessors who presumed to absolve penitents who had not these dispositions. The proposition that penitents who merely make oral profession of contrition without any purpose of amendment, or who refuse to avoid the proximate occasion of sin, may be absolved, were condemned by a decree of the Holy Office in 1679. An Instruction of Propaganda in 1827 warns confessors not to be too easy toward habitual sinners, *recidivi* and *occasionarii*. The Council of Trent implicitly defines the dispositions necessary for forgiveness of sin in a decision aimed at a too rigorous view of the obligation of the penitent. Of this decision we shall speak later.

The mode of procedure, then, with the penitent who is certainly indisposed, is clear enough. He is to be denied absolu-

[1] Palmieri, *De Poen.*, Appendix, No. 2, n. x.

[2] Decr. Grat. II, 378 A. D. Corp. Jur. P. 401.

tion until he can remove all prudent doubt in the confessor's mind as to the sufficiency of his dispositions. Neither is there any difficulty with regard to the penitent of whose dispositions the confessor has a prudent doubt. This doubt is to be removed before absolution can be given. But, when dealing with a penitent who is, beyond all prudent doubt, well-disposed, there may arise some doubt, not, indeed, as to whether absolution is to be conferred, for to that the confessor is bound in justice, but whether the penitent has a right to *immediate* absolution. Practically all moralists from St. Alphonsus down have allowed confessors to defer absolution when, in their judgment, such postponement would be for the spiritual good of the penitent. A typical statement of this position is given by Genicot. He says:[3] "From the fact that the confessor is under grave obligation to confer absolution upon a penitent whom he finds to be rightly disposed, it does not follow that absolution is always to be given immediately, even when the penitent is unwilling to consent to its postponement. For, although the penitent has a right to absolution in consideration of the confession he has just made, he has not always the right to immediate absolution. For at times the confessor may reasonably judge that a moderate postponement of absolution may benefit the penitent, inasmuch as it will inspire him with salutary fear and bring him to acknowledge the more readily the gravity of his sin and the necessity of amendment. But, if there be no prospect of such benefit, the confessor would act unjustly in postponing absolution arbitrarily." Genicot cites De Lugo (disp. 14, N. 169) and St. Alphonsus (n. 462) in support of his opinion.

Canon 886 of the new *Codex,* if interpreted according to the letter, seems to indicate that this position is no longer tenable. The Canon reads: "If the confessor has no reason for doubting the proper dispositions of the penitent, and the latter seeks absolution, it is neither to be refused nor postponed." But, even among moralists who have written since May, 1918, there is a considerable body of opinion which still allows the confessor, as a physician of souls, to postpone absolution for a time, as a remedial, or rather a prophylactic measure. The precise question, therefore, which we have to answer in this

[3] Vol. II, n. 366, Ed. 1909.

paper is whether, in virtue of Canon 886, a penitent who is rightly disposed and known as such to the confessor, has a right to *immediate* absolution, so that the confessor may not postpone absolution against the will of the penitent without violating his right and contravening the law of the Church.

In order to get at the precise point at issue it may be well to narrow the question down as much as possible by glancing at what is generally conceded.

1. All concede that absolution must be denied when the penitent is not properly disposed. The contrary proposition is expressly condemned by the Church.[4]

2. All concede that absolution ought to be deferred temporarily when the confessor has doubts of the dispositions of the penitent, if such doubts are sufficient to prevent the confessor from having moral certitude popularly so-called, that is, *certitudo moralis late dicta.*

3. All concede that it may be deferred when the penitent, though rightly disposed for absolution, is willing, *quasi sua sponte,* to have absolution deferred for a time, in order that he may be brought to deeper sense of sin and a firmer determination to avoid it.

4. All concede that absolution may *not* be deferred when the penitent, being rightly disposed, is so unwilling for absolution to be deferred that deferring it would do him more harm than good, drive him away from confession, cause him to commit further sin, or the like; or when the penitent would have to suffer some grave inconvenience in order to return to confession within a reasonable time.

The question, therefore, resolves itself thus: Even though the confessor has no doubts of the dispositions of the penitent, and even though the penitent is somewhat unwilling to have absolution deferred, may the confessor postpone absolution so long as no grave inconvenience results to the penitent? May absolution be deferred as a *remedy?*

Those who answer this question in the affirmative claim the support of the principle that prescriptions of the new Code which seem at variance with the old canon law are, in case of doubt, to be interpreted in accordance with the provisions of the old law and the general opinions of moralists. The question here precisely is: Does such a doubt exist?

[4] Decr. S. Off. 2 Martii, 1679, Prop. 60, 61, 62, damnat. Denz. 1210 sqq.

Of moralists who have written on the subject since 1918, Father Francis Ter Haar, C.SS.R.,[5] is the leader of those who answer this question affirmatively. He bases his contention upon the following arguments:

1. Canon 886: "If the confessor has no prudent doubts of the dispositions of the penitent, absolution must be neither refused nor postponed", was placed in the code as a reiteration of the Church's teaching against rigorists and Jansenists who held that the confessor had the right to postpone absolution practically *ad libitum*. This opinion is said to be supported by an examination of the source notes of the Canon, from which the official interpretation is to be derived. These notes consist of citations of the Corpus Juris, the decrees of Roman Congregations and bulls of the Popes.

2. When the confessor, in his office of spiritual physician, judges that postponement will be for the penitent's good, the latter is not to be considered altogether rightly disposed if he does not yield to the judgment of the confessor.

3. The penitent may be supposed to give an implicit consent to postponement by the very fact that he comes to confession.

4. The almost unanimous opinion of theologians antedating the Code is in favor of the view that, while the penitent has a right in justice to absolution, that right does not include immediate absolution.

5. Tanquerey, Arregui, Racca, Marc and Vermeersch, writing since 1918, allow the confessor to postpone absolution.

In answer to these arguments we may offer the following considerations:

1. While it is true that condemnations of Jansenistic and rigoristic teaching are found among the source notes, this by no means proves that the Canon is simply a reiteration of the Church's teaching against the Jansenists. For it is safe to say that, wherever we find, in decrees of Roman Congregations or in documents of the Roman Pontiffs, a condemnation of laxity in the giving of absolution, it is always because absolution was too easily given to *consuetudinarii, occasionarii* and those who were ignorant of necessary articles of faith, never because the postponement of absolution was a remedy which the confessor

[5] "De Conferenda Absolutione Sacramentali juxta Canonem 886", Romae, 1919.

ought to employ toward those who were rightly disposed. Habitual sinners who will not make any effort to conquer their vicious habits, those who refuse to withdraw from a proximate occasion of sin, and those who are ignorant of things necessary for salvation, are plainly not rightly disposed, and no one denies that they should be refused absolution, till they can adduce proof of the requisite dispositions.

Furthermore, some of the sources seem positively to insinuate that absolution ought never to be deferred when the penitent is rightly disposed for it. The rather emphatic language of Propaganda, in a decree dated 29 April, 1784, will serve as an example of such insinuation. After a paragraph warning confessors that they must demand signs of sufficient dispositions and that those who profess repentance with the lips only are to be denied absolution, the decree goes on to say: "But if, at any time, missionaries find it necessary to impose public penance, let them take care that they allow no penitent to be meanwhile deprived of sacramental absolution, so long as he, on his part, offers no obstacle to it. Absolution is to be denied to no one who is rightly disposed. For our Holy Mother the Church is kind and merciful and would not suffer anyone who, with heartfelt and firm contrition, asks pardon of God for his sins, to remain under the yoke of Satan, an enemy of God, deprived of all merit of good works."

Another strong statement in favor of immediate absolution is made by Propaganda in an Instruction dated 3 October, 1736;[6] "If absolution be postponed, the penitent remains an enemy of God, incapable of all merit and satisfaction. Therefore the prudent practice of immediately absolving rightly disposed penitents has flourished in the whole Church."

These are official statements of the Church's unwillingness to have absolution postponed when a penitent is rightly disposed for it, and it is from sources such as this rather than from decrees against the Jansenists and rigorists, which merely serve as a background for the Canon, that the Canon is to be interpreted. In the preface to the Code, where, surely, if anywhere, we may look for authoritative principles of interpretation, Cardinal Gasparri says, "It is hardly necessary to remark that the Canons do not always entirely agree with the sources

[6] See Sabetti, 28th Ed., n. 798.

cited." The reason for this is simply that the law of the Church may and does change from time to time. A severity which was good practice in the ages of faith may not be conducive to the good of penitents nowadays. Be it noted that there are two groups of stipulations in the Canon under discussion. First, the confessor must have no prudent doubt of the dispositions of the penitent, and, secondly, absolution is not to be deferred or denied to such a penitent. The sources which, it is claimed, justify the view that the Canon was inserted in the Code against the excessive rigorism of the Jansenists, support the first part of the Canon only, if they support anything, while the second is to be interpreted by such sources as those which we have just quoted.

2. The argument that the penitent is not rightly disposed unless he is willing to be deprived of absolution for a while, makes the whole question turn upon the meaning of the words "rightly disposed". Father Ter Haar would have it that the words include a willingness to accept even the extraordinary remedies which a confessor, in his capacity as spiritual physician, may wish to impose upon him, and he tries to draw a parallel between the physician of the soul and the physician of the body. There is indeed a parallel, but it is not one which will bear out Father Ter Haar's contention. No patient is bound in any way to make use of extraordinary remedies prescribed by a physician or surgeon. Nay more: if an operating surgeon goes beyond the wishes of his patient, as if, for instance, when operating for hernia, he snips off an appendix which he thinks is diseased, he is liable in civil law to an action for damages. More than one such case has been decided in favor of the patient and the damages awarded have been rather heavy.

As to the words "rite dispositus" including the willingness of the penitent to accept postponement of absolution, nowhere in the officially cited sources of the canon is there any such interpretation of the words. Wherever the question is touched upon, it is stated more or less clearly that absolution is to be postponed only and precisely because the confessor has a doubt of the correct dispositions of the penitent, which dispositions are defined by the Council of Trent to be a sincere sorrow for sin and the determination to avoid it in the future.[7]

[7] Sess. XIV, cap. 4, can. 5, Denz. 915, 12th ed. Cf. Rom. Rit., Tit. III, Cap. 1, n. 22.

The whole question of right dispositions is one which the confessor is to decide in his capacity as *judge,* not as *physician* and it is emphasized by Father Ter Haar that deferring absolution when the penitent is rightly disposed belongs to the confessor as spiritual physician. Now the Church, in Canon 886 and in many of the sources cited for the Canon, expressly says that when the confessor, as judge, has decided that the penitent is rightly disposed, absolution is not to be deferred.

Absurd consequences follow if willingness to have absolution deferred be included in the concept of right dispositions, for it is conceded that absolution should be given immediately to one who, with right dispositions in other respects, is so unwilling to wait longer for absolution that postponement would do him harm. The absurdity may be best brought out by putting the argument in the form of a dilemma. The penitent's unwillingness to consent to postponement either indisposes him or it does not. If it does, he may not receive absolution. But it is conceded that if he be so unwilling that postponement will harm him, he should receive absolution. Therefore, if it does indispose him, it is conceded that a penitent who is not rightly disposed should receive absolution—which is absurd.

3. The argument that the penitent may be supposed to give an implicit consent to postponement by the very fact that he comes to confession, may be met by a flat denial. Penitents generally go to confession to get absolution, and it is a fact of experience that most penitents are quite taken aback when they do not receive it. Imputing to them an implicit consent to postponement of the very grace that they have come after seems a clear instance of casuistry run wild.

4. As to the opinion of moralists antedating the Code, it may be conceded that they practically all favored occasional postponement. But the implied consequence, that the Code is to be interpreted according to their opinions, by no means follows. For it rests on the assumption that "the Holy See practically never stands up against the common opinion held for centuries by the chief theologians on a matter of natural or divine law." But here we are not dealing with a matter of natural or divine law, but with one of ecclesiastical discipline. And besides, while the "Holy See does not generally condemn the common view, it does occasionally. The decree of Pius X

on the dispositions required for Daily Communion is a case in point, and the parallel between it and Canon 886 is suggestive." [8]

5. Of moralists who have written since the Code, Tanquerey and Arregui appear to hold to the old teaching in spite of Canon 886, but Arregui adds that postponing absolution will rarely be of spiritual profit to the penitent unless he freely consents therein. Father Vermeersch, in his Summary of Canon Law, published in 1918, says that "Absolution may not be deferred even for the spiritual advantage of the penitent, if the latter is unwilling." In his Moral Theology, published in 1921, he goes back on this teaching and says that absolution may be deferred even though the penitent is *rite dispositus,* and that Canon 886 does not touch this old controversy.[9] He cites Father Ter Haar's brochure, which was published in 1919, in support of this opinion, and his *volte-face* was evidently caused by the argument there given, and which we have outlined above. The change in Sabetti from pre-Code editions to later ones is significant. In the earlier edition appeared a provision for postponement when the confessor decides that it is useful for the penitent's amendment. In the later editions this has disappeared and the reply to the query as to whether postponement of absolution may be used as a spiritual remedy is given simply in the words of Canon 886, without mentioning any exceptions. Instead, he quotes the decree of Propaganda, 3 October, 1776, which we have already cited, to the effect that no rightly disposed penitent should be allowed to remain an enemy of God and deprived of all merit and satisfactory fruit of his good works.[10] Father Ferreres [11] quotes from the constitution *Caritate Christi* of Leo XIII: "It is necessary, if there be a just cause for deferring absolution, to persuade the penitent." Father Blat [12] gives probably the clearest statement of the new position. He says: "I believe that the postponement of absolution *as a remedial measure* is only to be used when the confessor prudently doubts at least of the penitent's

[8] I. E. R., Vol. 13, p. 511.

[9] Vol. III, p. 364.

[10] Contrast Edition 28, nn. 797, 798 with Edition 25, same numbers.

[11] *Theol. Mor.,* Vol. II, p. 429, Ed. 1919.

[12] *Theol. Mor.,* p. 243.

sincerity or of the supernatural character of his sorrow, and that the opinion of those authors who have held the contrary is opposed to Canon 886 and must now be abandoned."

We may therefore conclude, that, while the confessor is the judge of the signs of correct dispositions in the penitent (and the judgment of confessors is bound to differ somewhat on this point), still, when he has no doubt that the penitent is rightly disposed, in the ordinary meaning of that term, i. e. that he is sorry for his sins and determined to avoid them for the future, the confessor is no longer at liberty to defer absolution, but that the words of canon 886, " When the confessor has no doubt of the penitent's dispositions, absolution is not to be deferred ", are to be interpreted literally as they stand.

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THE LEGAL EFFECT OF ANTE-NUPTIAL PROMISES IN MIXED MARRIAGES.

IV. THE NATURE OF THE RIGHT[86] ACQUIRED IN THE ANTE-NUPTIAL AGREEMENT.

It is thus seen from the statements of the law that the courts of the United States and England have had no difficulty in recognizing the contractual nature of ante-nuptial agreements concerning the conveyances of property or other similar interests and have not questioned their legal enforceability as between husband and wife. Furthermore they have been supported by the courts even where the promise of the man was to give property to a third person, other than the wife.[87] Also, the contractual liability has been held to survive the death of the promisor and to bind his estate.[88] In view of the universal recognition of the ante-nuptial agreement relating to property, both real estate and personalty, the question naturally arises as to the reason for the difficulty in recognizing and enforcing promises in the *Cautiones* relating to the baptism and education of children in mixed marriages. The answer is that agree-

[86] In using the term "right," I am not falling into the error of assuming what I attempt to prove. "Right" in this use is equivalent to "claim."

[87] Vason v. Bell, 53 Ga. 416 (1874).

[88] Dickinson v. Lane, 193 N. Y. 18; 85 N. E. 818 (1908).

ments for the payment of money and agreements relating to the transfer or creation of a property interest in tangible property have not presented any difficulty in computation of the amount or in specific enforcement respectively.

In contrast, this ante-nuptial agreement presents a question distinct from tangible vested rights to money or property, or as one judge has said in this regard, the right "is not a matter of property but a matter of feeling."[89] Because of this fact, however, it is not less valuable to the parties concerned. On the contrary, the right is far more valuable and is connected in a very intimate way with the permanent contentment and happiness of the Catholic party to whom it is given. Our system of law has been historically divided into courts of law and courts of equity. Modern statutes have enlarged the sphere of jurisdiction of these courts giving both courts, but particularly the law courts, jurisdiction which formerly had been confined exclusively to the other. However, the principal distinction between the courts of law and courts of equity has been maintained, for the former limit their consideration to those matters in which the damages of the aggrieved party could be reduced to terms of money.[90] The latter—courts of equity—go beyond into the field of specific enforcement of contracts through the instrumentalities of negative injunctions which are issued against a person and forbid a certain line of conduct,[91] or of positive decrees which command the person affirmatively to act in a prescribed way.[92] Courts of equity have professed however to limit their consideration to cases which involve "property rights".[93] The truth of the profession has been challenged by learned authorities.[94] Even the casual reader will sense at once that some of the equity cases with which he is familiar, can at best be said to "hang on a peg" of technical property rights, for they actually deal substantially with personal rights, so-called rights of personality.

[89] Andrews v. Salt, 8 Law Rep. Chancery App., 622, 628 note (1873).
[90] Pomeroy's Equity Jurisprudence (Students' Ed.), Sec. 139.
[91] *Ibidem*, Sec. 1337.
[92] *Ibidem*, Sec. 1359.
[93] See Chapter V.
[94] See Chapter V.

In the last half-century there has grown up a body of law which compels great respect and which has focussed the critical attention of legal scholars upon the out-worn theory that equity jurisdiction is limited to the adjudication of "property rights", substantial or technical in character. It has shown that the historical basis for the doctrine is questionable, and has attacked the court's use of fictions for the purpose of evading the real question of jurisdiction, often presented, that of the enforcement of a right of personality. This body of law marks a development which recommends itself for honesty and candor. It is a noteworthy step in the progress of the law. It recognizes a true situation in life—that rights exist, apart from property rights, which are extremely valuable and vital to the owner. It proceeds further to protect them upon the basic reasoning that the law *has inherent ability* to develop beyond the professed, technical, and unreasonable limitation established by precedent. It is submitted that the right, acquired by the Catholic party in the ante-nuptial agreement, to have the children baptized and reared in the Catholic religion is such a right of personality, and that it should be protected by the law even to the extent of specific enforcement by courts of equity. It is apparent to the reader that such ante-nuptial contracts cannot be effectively enforced in a court of law where the remedies are limited to money damages. It seems clear that damages in terms of money for the breach of such a contract are neither possible to compute nor adequate to compensate. The only other alternative is redress in a court of equity in the form of specific enforcement. It may be added here that, considered generally, the courts of equity have exclusive jurisdiction of matters concerning rights between husband and wife.[95] The function of equity in this regard is illustrated by the following:

> Courts of equity alone can give a remedy on a contract made between a husband and his wife, whether redress is sought by one of the original parties against the other or by or against the legal representative of one or both of the original parties.[96]

It is therefore submitted that since such promises are within the purview of modern extension of equity jurisdiction, and

[95] Woodruff v. Clark, 42 N. J. Law, (13 Vr.) 198 (1880).

[96] See also Metzler v. Metzler, 8 N. J. Misc. R. 821; 151 A., 847 (1930).

since courts of law are unable to give adequate relief, equitable remedies should be granted upon analogy to modern cases which protect and secure interests of personality. Since this statement will probably be challenged, it is worth while to review briefly the theories of equity jurisdiction particularly in reference to protecting interests of personality. Some modern writers have classified the various individual interests and have set apart in a distinct division "rights of personality", which they claim should be recognized and legally protected. For example, Dean Pound's classification is as follows:

> Individual interests may be classified as (a) interests of personality,—the individual physical and spiritual existence; (b) domestic interests,—expanded individual life, and (c) interests of substance,—the individual economic life.[97]

Further emphasis upon the recognition of interests of this character is shown by the same writer in the following:

> The (domestic) relations themselves are both personal and economic. Hence the individual interests therein partly involve the individual personality, the feelings, the affections, the honor of the individual, but also partly involve the individual substance so far as the relations incidentally give individual economic advantages. . . . (1) the first, as parents may urge it, should perhaps be put more broadly than Professor Wigmore needed to state it for the purposes of the law of torts. Parents may and do claim not merely the society of their children, as ministering a social pleasure, but the custody and control of them, especially while they are of tender years, and the power to dictate their training, prescribe their education and form their religious opinions. All those things are claimed, as it were, as a part of the parent's personality. (2) The chastity of a female child, also, is so intimately connected with the honor of the family and the self-respect and mental comfort of the parent, that the interest in maintaining it is asserted as a phase of the parent's interest of personality. . . . The first and second, as they are in the nature of interest of personality, encounter the difficulties involved in securing of personality through rules of law and judicial machinery. As to the first, the parent's interest in society and control of children is secured against strangers by the writ of habeas corpus, by the jurisdiction of courts of equity, preventive and remedial, and by an action for damages against one who interferes with the relation,

[97] R. Pound: Interests of Personality, 28 Harv. L. Rev., 343, 349 (1915).

in which the injury to the feelings of the parent, to a limited extent only, are made the basis of a reparation, as it were, parasitic to the claim for injury to the economic relation. But of late the law has put many limitations upon the parent's claim to custody of children and to control of their training and bringing up. . . . Finally these interests are in effect interests of personality, they are so peculiarly related to the mental and spiritual life of the individual as to involve in the highest degree the difficulties incident to all legal reparation of injuries to the person.[98]

Our legal system recognizes this unique relationship and predicates upon it very significant and unusual changes in legal rights. The Chief Justice of the Supreme Judicial Court of Massachusetts has said of one legal phase of this situation:

. . . At common law, without merit or fault in respect of his own conduct, the child was entitled to the benefit of his father's vigilance and forethought and was subject to all disadvantages resulting from any failure of performance of that parental duty. . . . This principle of law arises out of the family. It recognizes the parent in a sense as the repository of a trust to nurture and protect his offspring. It charges him with responsibility on that footing. The natural fact of entire dependence of so young a child upon the parent is thus adopted as the basis of legal rights and obligations. This principle is quite disconnected with the law of master and servant, host and guest, joint adventurers, or any other association of life. . . . [98a]

And writing about the problem of redress where such rights have been violated, the learned writer describes the legal situation graphically in the following passages:

A man's feelings are as much a part of his personality as his limbs. The actions that protect the latter from injury may well be made to protect the former by the ordinary process of legal growth. The problems are rather to devise suitable redress and to limit the right in view of other interests involved. . . . In connection with interests of personality, where redress by way of damages is often obviously inadequate if not inapplicable, the hesitation of our law to apply preventive remedies is unfortunate and without just excuse. . . . It impairs the mental peace and comfort of the individual and

[98] R. Pound: Individual Interests in the Domestic Relations, 14 Mich L. Rev., 177, 178, 183, 196 (1916).

[98a] Gallagher v. Johnson, 237 Mass. 455, 130 N. E. 174 (1921).

may produce suffering much more acute than that produced by a mere bodily injury . . . [99]

In striking agreement are these modern theories, propounded by such leaders of legal thought, with the earlier expressed teaching of Pope Leo XIII, when speaking of the relation of parent and child and the interests involved. He had declared many years before that the child is an *"extension of the person"* of the parents and that children " carry on, so to speak, and continue " that personality.[100]

While the Catholic religion places great emphasis upon the closeness of the relation between parent and child, it never views the result as a merger and appreciates and retains the individuality of each. It is common-place to remark that a child resembles the parents in physical characteristics. But the one fact, which is sometimes over-looked, is the reality of the resemblance in mental and religious characteristics resulting from the influence of the parental relationship. This is recognized and emphasized in the religious belief of the Catholic.

But it may be objected that religious belief has not such a reality as could be appreciated and recognized by courts. However, this reality of religion as a real right of personality has been acknowledged in a striking way by a New York Court. In this case an orphaned child of Catholic parents, who was just 14 years old, was placed under the care of a Protestant by a married elder sister. The child's eldest brother, a Catholic, sought to be appointed guardian. It appears that the Protestant was financially able to care for the child and the brother was not so able. The child desired to remain with the Protestant. The court ordered the child to remain in the custody of the Protestant and that she be educated in a Catholic residential institution.

In this case the justice writing the opinion said:

To Catholics, in particular, the education of an infant, leading as it does to their indissoluble marriage law, and their family relations founded on a subordination and respect to elders, the education (I

[99] R. Pound: Interests of Personality, 28 Harv. L. Rev., 343, 363, 364 (1915).
[100] Encyclical Letter *Rerum Novarum*, 15 May, 1891 — *The Great Encyclical Letters of Leo XIII*, p. 246.

say) of their infants in their own way is regarded by them as of paramount importance.[101]

In another and very recent case from the same state Catholic parents in impecunious circumstances executed a contract relinquishing custody of two minor sons during minority to respondent, a Protestant, on condition that respondent would divide the earnings of the children as violinists and assume responsibility of the children's maintenance and musical education. Subsequently, the respondent was made a general guardian of the children and removed them to another state to advance their musical training. The father then sought to recover custody of the children. The court permitted the children to remain with the Protestant guardian but appointed a Catholic priest as co-guardian of the persons of the wards. The court, after quoting with approval the language of the Mancini case above, said:

> . . . it is important that the spiritual education of children of such an impressionable age should be properly safeguarded. It is conceded that the wishes of their parents to have them brought up in the religion of their ancestors must be respected. And this is also the view which the law takes. It does so, not as a matter of sentiment or out of deference to narrow sectarian views, but as a matter of sound public policy. The family is the institutional unit in which infants, the cooperation between the home, the school, and the church or other spiritual agency, can best be prepared as members of society and as good citizens. Even though the infant be physically separate from the family, it is still constructively a part of it, and entitled to be brought up in the religious faith professed by its parents. These principles are entirely consistent with the American view of religious liberty.[102]

The courts in these decisions have recognized the fact that religion is a reality in the life of the individual and thus agreed with the conclusions of all great psychologists.

William James refers to the problem in the following brilliant language:

> All our attitudes, moral, practical, or emotional, as well as religious, are due to the "objects" of our consciousness, the things

[101] Matter of Mancini, 89 Misc. Rep. 83, 86; 151 N. Y. Supp., 387, 389 (1915). (Italics inserted.)

[102] People v. Lackey, 248 N. Y. Supp., 561 (1930).

which we believe to exist, whether really or ideally, along with ourselves. Such objects may be present to our senses, or they may be present only to our thought. In either case they elicit from us a reaction; and the reaction due to things of thought is notoriously in many cases as strong as that due to sensible presences.[103]

Another passage reads:

For when all is said and done, we are in the end absolutely dependent on the universe; and into sacrifices and surrenders of some sort, deliberately looked at and accepted, we are drawn and pressed as into our only permanent positions of repose. Now in those states of mind which fall short of religion, the surrender is submitted to as an imposition of necessity, and the sacrifice is undergone at the very best without complaint. In the religious life, on the contrary, surrender and sacrifice are positively espoused: even unnecessary givings-up are added in order that the happiness may increase. *Religion thus makes easy and felicitous what in any case is necessary*; and if it be the only agency that can accomplish this result, its vital importance as a human faculty stands vindicated beyond dispute. It becomes an essential organ of our life, performing a function which no other portion of our nature can so successfully fulfill. From the merely biological point of view, so to call it, this conclusion to which, so far as I can now see, we shall inevitably be led, and led moreover by following the purely empirical method of demonstration which I sketched to you in the first lecture.[104]

An eminent English psychologist discusses the conception in this fashion:

And therefore at bottom popular feeling is right in holding that religious belief is necessary to Morality. Of course I do not mean to say that, were religious belief to disappear from the world, morality would disappear too. But I do think Morality would become quite a different thing from what it has been for the higher levels of religious thought and feeling. The best men would no doubt go on acting up to their own highest ideal just as if it did not possess objective validity, no matter how unable they might be to reconcile their practical with their speculative beliefs. But it would not be so for the many, or perhaps even for the few in their moments of weakness and temptation, when once the consequences of purely naturalistic Ethics were thoroughly admitted and realized.[105]

[103] William James, *The Varieties of Religious Experience* (New York: Longmans, Green, and Co., 1925), p. 53.

[104] William James, *op. cit.*, pp. 51, 52.

[105] Hastings Rashdall, *Philosophy and Religion* (New York: Charles Scribner's Sons, 1910), p. 75.

The universal acceptance of the reality of religion is pointed out by another leading philosopher:

> There is hardly an aspect of our changing life with which religion does not come into touch and which it may not bless and consecrate. . . . Confirmation, Holy Communion, Marriage or Holy Orders, Extreme Unction, and Burial in the Catholic practice, . . . these are but practical applications and noble symbols of the fact, that religion is almost as many-sided and inclusive as life.[106]

And how embracing is the effect upon the individual's relationship with all phases of his life, finds expression in another excellent work:

> The religious feelings of mature life center most naturally about three things: the sense of one's own spiritual life, the consciousness of the larger life outside the self, and an appreciation of the relationship existing between the self and this larger life.[107]

Finally, modern philosophical thought has found expression in this short passage from Pratt:

> In short, religion is not a theory about reality; it *is* a reality. And yet we must not forget that it is a reality which includes a theory.[108]

These opinions have been taken from outside the Catholic Church. The Church's position on the point is very clearly exemplified in the words of St. Thomas Aquinas:

> Again, we must observe that, in the human species, the offspring needs not only nourishment for its body, as with other animals, but also instruction for its soul. For other animals have their natural forethought which enables them to provide for themselves: whereas man lives by reason, which can attain to forethought only after long experience: so that children need to be instructed by their parents who are experienced.
>
> Moreover children are not capable of this instruction as soon as they are born, but only after a long time, and especially when they reach the age of discretion. Besides, this instruction requires a long time. And even then, on account of the assaults of the passions

[106] James Bissett Pratt, *The Religious Consciousness* (New York: The Macmillan Company, 1920), p. 121.

[107] Edwin Diller Starbuck, *The Psychology of Religion* (London: Walter Scott, 1899), p. 324.

[108] James Bissett Pratt, *The Religious Consciousness*, p. 7.

whereby the judgment of prudence is perverted, they need not only instruction but correction.[109]

It is submitted without hesitation that the additional right acquired by the Catholic to have the children baptized and brought up as Catholics is so intimately connected with the parent's existence, religious conviction, and individual contentment and satisfaction, that it may be properly described as an interest in personality. Now, the ante-nuptial agreement has been made with the non-Catholic party fully aware of the religious belief of the Catholic. Free to accept or reject the agreement he or she has chosen to accept and, upon the strength of the promises contained in it, the Catholic has changed his or her status irrevocably. Married life has a supernatural purpose to the Catholic parent. The begetting of children, their baptism and religious training have a meaning of tremendous spiritual import to the Catholic party. This is not said in disparagement of the non-Catholic. It is said to emphasize the fact that religious truths are of the very fibre of life's existence to the Catholic. And, since the very *raison d'être* of the ante-nuptial agreement is the religious conviction and status of the Catholic party, it is essential to pause and review his religious beliefs as they form a part of the ante-nuptial agreement. From childhood he (or she) has been taught that every human being is a creature of God, with a definite purpose in life and a part of the divine plan. Neither the so-called liberty of adult age, prosperity, power, or intellectual achievement, enlarge, narrow or change the purpose of life which he has learned in the beginners' Catechism; viz., "God made me to know Him, to love Him, and to serve Him in this world, and to be happy with Him forever in Heaven." God grants spiritual regeneration in Baptism, and all through life communicates His spiritual powers to the individual soul through the sacraments. The individual's rôle is accurately described by an authoritative Catholic writer in the following passage:

Our role consists in making use of the divine gifts in order to live with God and for God, in order to live in union with Jesus and to

[109] St. Thomas Aquinas, *The Summa Contra Gentiles*, 3rd Book, Part II, Chap. 122, pp. 112, 113. (Burnes, Oates & Washbourne).

imitate Him. But we cannot live that supernatural life without a continual struggle against the threefold concupiscence which still remains in us. And moreover, since God has endowed us with a supernatural organism, it is our duty to make that life increase in us by meritorious acts and the fervent reception of the sacraments.[110]

The meaning of the sacraments as a living vital force is explained as follows:

We have already shown how the seven sacraments of the Church embrace the whole of human life, and how they sanctify all its heights and depths. The soul at peace with God is sanctified in Confirmation and Holy Eucharist; the soul burdened with sin in Baptism and Penance; the afflicted soul, in the awful hour of death, in the Last Anointing. The community life also is sanctified by the sacramental blessing; on its social side by the sacrament of Matrimony, on its religious side by the sacrament of Holy Orders. It is before all else the realism of its sacramental thought which gives the sacramental worship of the Church its religious and moral value. The Church does not attenuate the sacrament into an empty symbol, or into a sign of grace which obtains all its efficacy from subjective faith. On the contrary it is a real expression of Our Lord's gracious will, a sign of Christ (signum Christi), and as such it already ensures the presence of His grace through itself, through its actual performance. That is a fundamental point of Catholic sacramental doctrine. "A sacrament is not fulfilled by the fact that one believes in it, but by the fact that it is performed." (Sacramenta non implentur dum creduntur, sed dum fiunt.) Thus through the sacraments the divine wins tangible reality and becomes a visible and present value. Therefore the Catholic has an immediate experience of the divine, an experience as immediate and objective as is the child's experience of the love of its mother.[111]

And likewise the Catholic party has been taught the steadfast truth that marriage is a holy sacrament, instituted by Christ, in which a man and woman are united forever to achieve as primary end the procreation and education of

[110] Adolphe Tanquerey, S.S., *The Spiritual Life* (Tournai: Desclée and Co., 1930), p. 45.

[111] Karl Adam, *The Spirit of Catholicism* (New York: The Macmillan Co., 1931), p. 185; Tilmann Pesch, *The Christian Philosophy of Life* (London: Sands and Co., 1909), p. 369; "Rights and Duties of Parents", *The Catholic Mind*, Vol. 23 (1925), p. 321; "The Catholic Home", *op. cit.*, Vol. 27 (1929), pp. 290, 294; Spirago-Clarke, *The Catechism Explained* (New York: Benziger Brothers, 1927), p. 659; W. Wilmers, S.J., *Handbook of the Christian Religion*, (3. ed., New York: Benziger Brothers), p. 483.

children and as secondary end their mutual support.[112] And the meaning of marriage and life itself is explained in an address to the couple to be married, frequently used at the very ceremony in which these parties became man and wife.[113]

The duty of Family Life, in Catholic doctrine, is more than a mere human convenience. Its dignity and meaning are explained by a noted Catholic theologian as follows:

[112] H. A. Ayrinhac, *Marriage Legislation in the New Code of Canon Law*, (New York: Benziger Brothers, 1918), p. 23. J. D. Malloy, C.S.P., *A Catechism for Inquirers*, (4. ed., New York: The Paulist Press, 1927), p. 51, teaches:

"(10) MATRIMONY

"144. By whom was Matrimony instituted?

"Matrimony was instituted by God Himself, when He created the first man and woman and declared that 'a man shall leave father and mother, and shall cleave to his wife, and they shall be two in one flesh' (Gen. ii, 24).

"146. How do we know that Matrimony is a Sacrament?

"St. Paul says the marriage of a man and woman is like the union between Christ and His Church. . . ."

[113] "My dear friends: You are about to enter into a union which is most sacred and most serious. It is most sacred, because established by God Himself; most serious, because it will bind you together for life in a relationship so close and so intimate that it will profoundly influence your whole future. That future with its hopes and disappointments, its successes and its failures, its pleasures and its pains, its joys and its sorrows, is hidden from your eyes. You know that these elements are mingled in every life, and are to be expected in your own.

"And so not knowing what is before you, you take each other for better or for worse, for richer or for poorer, in sickness and in health, until death. . . . Truly, then, these words are most serious. It is a beautiful tribute to your undoubted faith in each other, that recognizing their full import, you are nevertheless so willing and ready to pronounce them. And because these words involve such solemn obligations, it is most fitting that you rest the security of your wedded life upon the great principle of self-sacrifice. And so you begin your married life by the voluntary and complete surrender of your individual lives in the interest of that deeper and wider life which you are to have in common.

"Henceforth you will belong entirely to each other; you will be one in mind, one in heart, and one in affections. And whatever sacrifices you may hereafter be required to make to preserve this common life, always make them generously. Sacrifice is usually difficult and irksome. Only love can make it easy; and perfect love can make it a joy. We are willing to give in proportion as we love. And when love is perfect the sacrifice is complete. . . .

"No greater blessing can come to your married life than pure conjugal love, loyal and true to the end. May, then, this love with which you join your hands and hearts today never fail, but grow deeper and stronger as the years go on. And if true love and the unselfish spirit of perfect sacrifice guide your every action, you can expect the greatest measure of earthly happiness that may be allotted to man in this vale of tears. The rest is in the hands of God. Nor will God be wanting to your needs; He will pledge you the life-long support of His graces in the Holy Sacrament which you are now going to receive."—*The Ritual for the Celebration of Matrimony, Instruction Before Marriage.*

The family is a Divine institution, and God has willed that the majority of men shall be subject to the obligations which it necessarily implies. . . .

Happiness is only to be found in a home where God is Master, and all are concerned to do His will. In this regard Christ is our perfect example. . . .

The whole structure of human society has its foundations in the home, and man's weal or woe depends upon the manner of the child's upbringing there. It is the father, even more than the mother, who must be held answerable for the faithful discharge of this task.

The conduct of parents, and more particularly the example set by the mother in the home, must necessarily be a potent formative influence in a child's life.[114]

Parenthood and the religious training of children have been made equally clear.[115]

A casual examination of these representative writers concerning Catholic doctrine will suffice to impress upon the reader the added reasons which may fairly be stressed to support the contention, that the right acquired by the Catholic in the ante-nuptial agreement is not only a right but the most obvious kind of right of personality.

[114] Tilmann Pesch, S.J., *The Christian Philosophy of Life*, pp. 369-370.

[115] "Religious knowledge is the most important for the pupil, because, above all, we are creatures of God, and are therefore bound to worship and obey Him as our Creator. Our duties to God stand before all our other duties, and the knowledge and worship of God must ever be first among the obligations arising in the dawning intelligence of the child. But it is impossible for the child to acquire a due knowledge of God and of his obligations towards Him in a few lessons, or within a few weeks or months. Time is needed, as with all other branches of knowledge. Progress can be made only step by step. Hence, the work of teaching religion should occupy the place of first importance in the education of the child and should be, as far as possible, continuous. . . ."—J. A. Burns, C.S.C., *Catholic Education*, (New York: Longmans, Green and Co., 1917), p. 22.

"Parents are under very grave obligation, according to their means, to attend to the education of their children, both religious and moral, physical and civil, and also to provide for their temporal good."

"This obligation is imposed upon parents by the very law of nature; canon law reaffirms, defines, and enforces it. The Catholic Church has always maintained that the rights and duties of parents extend to all the functions of education. As far as depends on them, they are bound to make their children strong and good men and women, good Christians and good citizens. They should look after their temporal welfare, principally when children are not able to provide for themselves, but afterward, also, to help them to improve their social condition."—H. A. Ayrinhac, *Marriage Legislation in the New Code of Canon Law*, p. 277.

V. The Remedy of Specific Enforcement of the Right of Personality.

If, as has just been pointed out, the ante-nuptial agreement fulfills the legal requirements of a contract and results in an added right of personality to the Catholic party, the further question remains whether such an interest of personality should be given the protection of specific performance in equity in view of existing authorities. Such a sanction, it may be objected, needs the support of convincing legal authorities. It was pointed out earlier that some equity courts still cling to the old traditional principle that courts of equity recognize only "property rights," substantial or technical, as the limited basis of their jurisdiction. But that narrow basis of equitable relief has been subjected to a sharp attack for many years. The growing trend of judicial decisions and legal scholarship shows an increasing departure from the traditional basis and a tendency to extend the protection given to rights of personality. All discussions of this question run back to the dictum of Lord Eldon in the famous case of Gee *v.* Pritchard decided in 1818.[116] In that case the plaintiff's late husband had educated and brought up the defendant in the family as an adopted son. After the death of the husband, the defendant, dissatisfied with the provisions of the will, threatened to publish letters which had been written to him as a member of the family by the plaintiff. Lord Eldon continued the injunction against the publication. But he said that the remedy was granted on the ground that the plaintiff had a "sufficient property in the original letters to authorize an injunction," and added the much-quoted dictum. That dictum is generally regarded among legal students as the basis of the traditional principle. It states that relief in equity can rest only upon property rights and not upon any injury to feelings or other interests in personality. The soundness of the influence of this dictum in subsequent cases has been questioned by a great authority in these words:

> Do the rules which our books still announce upon this subject rest upon any basis more legitimate than unintelligent adherence to the dicta of a great judge in the pioneer case?

[116] R. Pound: Equitable Relief against Defamation and Injuries to Personality, 29 Harv. L. Rev., 640 (1916).

It will have been perceived that the real injury in Gee *v.* Pritchard was an invasion of the right of privacy. In result therefore, a case in which we are told that equity has no jurisdiction to secure interests of personality, and the case always cited since for that proposition, was a pioneer decision finding a way for securing the then unknown right of privacy.[117]

The more enlightened courts have definitely broken away from the influence of Lord Eldon's dictum and recognized in an emphatic way the sound basis for equitable relief which exists in cases involving personality rights. This trend has been noted in a scholarly article:

This development of the law was inevitable. The intense intellectual and emotional life, and the heightening of sensations which came with the advance of civilization, made it clear to men that only a part of the pain, pleasure, and profits of life lay in physical things. Thoughts, emotions, and sensations demanded legal recognition, and the beautiful capacity for growth which characterizes the common law enabled the judges to afford the requisite protection, without the interposition of the legislature.[118]

An eminent teacher in equity has further described the evolution of the trend:

Dean Pound renewed the attack on a still broader front. Each year brings increasing evidence that their views will eventually be accepted by courts and legislatures. The law courts from early times have protected interests of personality, for example, by actions of slander and libel. What rational principle forbids the appli-tion to such rights of the familiar rule that if there is a remedy at law which is inadequate, then equity gives relief, unless special considerations restrain the exercise of its jurisdiction.[119]

An examination of a few of the leading cases will show the development of this commendable doctrine, that equity is not restricted by any artificial limitation as to jurisdiction based upon substantial or technical property rights. On the contrary it has ample inherent jurisdiction to proceed to the protection

[117] R. Pound, *op. cit.*, 29 Harv. L. Rev., 641, 642 (1915).

[118] Samuel D. Warren and Louis D. Brandeis: The Right to Privacy, 4 Harv. L. Rev., 193, 195 (1890).

[119] Z. Chafee, Jr.: The Progress of the Law — The Extension of Equitable Jurisdiction Beyond the Protection of Property Rights, 34 Harv. L. Rev., 388, 407 (1921).

of rights of personality through the issuance of affirmative orders and negative injunctions.

This may be illustrated by a review of a few of the leading cases. In *Ex Parte Warfield* the plaintiff brought an action in equity against the defendant, alleging that the defendant was causing a partial alienation of affections of plaintiff's wife. The petitioner asked that the defendant be restrained from visiting or associating with her, writing or speaking to her or in any manner communicating with her. The defendant was subsequently committed to jail for contempt of court in violating the terms of the court's order. He attacked the validity of the injunction by suing out a writ of habeas corpus to test the legality of his imprisonment. In such a proceeding the question of the jurisdiction of the equity court is always of prime importance. The court denied relief and remanded the defendant to custody.

The case turns upon the husband's right to the undisturbed enjoyment of the consortium of his spouse. Another court, speaking of this right, has said:

> The right of either husband or wife to the consortium of their respective spouse, as distinguished from the right of service belonging to the husband or the right to support belonging to the wife, has been regarded as of a somewhat sentimental character. Yet this right of consortium has been treated by a number of courts as a species of property.[120]

It may be objected that the jurisdiction of equity in *Ex Parte Warfield* was enlarged by statute or that consortium is a property right; but to do this is to reach out for the basis of a technical "property right however slender and shadowy." It is clear that the real basis was the right of the husband to an undisturbed possession of his right of personality acquired by marriage.[121] As the court of appeal said:

> It cannot be seriously questioned that the principal object of the suit was to preserve the marital relations existing between plaintiff and his spouse, and to conserve as far as may be, and rehabilitate her affections for the plaintiff.[122]

[120] Larisa v. Tiffany, 42 R. I., 148; 105 A, 739, 743 (1919).

[121] Ex parte Warfield, 40 Tex. Crim. Appeals 413; 50 S. W. 933 (1899).

[122] A contrary opinion was announced in a New York case. In this case the

A Supreme Court, whose decisions are often cited with approval, has in a case protecting a right of personality indicated its agreement with this view. Here we had a petition by a husband against his wife, who was separated from him, and against the wife's child, alleging that his wife fraudulently claimed that the child was his son and had caused such fact to be noted on the city vital statistics record. The bill prayed for a permanent injunction against the wife and infant, restraining them from claiming for the child under their certificate the "status, name, property or privilege" of a lawful child. While in that case the court found a property interest remotely involved, and made it the "technical basis" of equity jurisdiction, yet the court proceeded to state clearly that, even in the absence of property rights, it would hold rights of personality as a sufficient basis for equity jurisdiction. The opinion contains the following language:

> If it appeared in this case that only the complainant's status and personal rights were thus threatened or thus invaded by the action of the defendants and by the filing of the false certificate, we should hold, and without hesitation, that an individual has rights, other than property rights, which he can enforce in a court of equity and which a court of equity will enforce against invasion, and we should declare that the complainant was entitled to relief.[123]

This plain statement by the court is commendable. It has been approved in these words:

> Moreover the remarks of the court on the subject of equitable protection of interests of personality are admirable and will undoubtedly exert a wholesome influence.[124]

husband secured a divorce in Mexico which was held void by a New York court. He then married another woman in Connecticut and returned to New York. The lower court enjoined, on the petition of the first wife, the second wife from holding herself out as married to the husband. It also restrained the husband from holding out that he had secured a divorce, and further restrained the woman from using the name of the husband and forbade them to go through any marriage ceremony while the plaintiff wife was living. The Superior Court, in reversing the lower court's decision, said:

"Equity cannot by injunction restrain conduct which merely injures a person's feelings and causes mental anguish. . . . The law does not remedy all social evils or moral wrongs. In the case of Atkinson v. Doherty, 121 Mich. 372, the court said: 'Although injuries to feelings are recognized as a ground for increasing damages, the law has never given a right of action for an injury to feelings merely.'"—Baumann v. Baumann, 250 N. Y. Rep. 382; 165 N. E. 819 (1929). (Cardozo, C.J., did not vote.)

[123] Dill, J., in Vanderbilt v. Mitchell, 72 N. J. Eq. 910; 67 Atl. 97, 100 (1907).

[124] Comment on above opinion by R. Pound, *op. cit.*, 29 Harv. L. Rev., 640, 677 (1916).

While equity's jurisdiction over dead bodies may be said to rest upon a quasi property right, wishes of the deceased and particularly the religious feelings have been respected by the courts. Now the following language of a leading American jurist, Mr. Justice Cardozo as Chief Judge of the New York Court, forbidding the removal of the body of a Catholic from consecrated ground, gives an idea of the proper approach to evaluating the strong convictions and deep sentiment of the Catholic's religious belief:

> In the faith of the Church, plaintiff's mother and brother were buried in the plot so purchased. This was done some years ago while Mr. Yome was yet alive. . . . On his deathbed he received the sacraments of the Church, and he was laid in his grave in accordance with its rites. A rule of the Church forbids the removal of a body from consecrated ground to ground that is unconsecrated, or consecrated to another faith. . . .
>
> Defendants remind us on the other hand that he was reared in the faith of the Church, and died in it, sending for a priest upon his deathbed to gain the privilege of burial in consecrated ground.
>
> Even without contract, sentiments and usages, devoutly held as sacred, may not be flouted for caprice. They must be weighed in the balance with the motives and feelings that sway the acts of the survivors.[125]

The case of Stark *v.* Hamilton follows the trend of authority favoring rights of personality as a sufficient basis for equity jurisdiction. In this case the defendant seduced the plaintiff's minor daughter. The plaintiff sought to enjoin the defendant from associating with the girl. The court granted the injunction, saying:

> The principal case might also have been decided as involving a property right. The plaintiff could have maintained an action at law for the loss of his daughter's services. . . . But the court does not rest its jurisdiction on this property interest, but upon the interests of personality which are really at stake.[126]

The candor and reasoning of this court has been rightly praised.

[125] Cardozo, J., in Yome v. Gorman, 242 N. Y. 395; 152 N. E. 126, 128, 129 (1926).

[126] Stark v. Hamilton, 149 Ga. 44; 99 S. E. 40 (1918).

This decision might have found an incidental property right in the father's interest in his daughter's services, but refuses to hang such a property "peg".[127]

And Professor Chafee approves this passage from the opinion:

It is difficult to understand why injunctive protection of a mere property right should be placed above similar protection from the continual humiliation of the father and the reputation of the family. In some instances the former may be adequately compensated in damages, but the latter is irreparable; for no mere money consideration could restore the good name and reputation of the family, or palliate the humiliation of the father for the continual debauching of his daughter.[128]

This same principle is righly developed by Justice Cardozo in his *Growth of the Law:*

I find again in a recent judgment of my own court the case that points my meaning. We held a little while ago in Oppenheim *v.* Kridel, 236 N. Y. 156, that a woman, as well as a man, may maintain an action for criminal conversation. The court of intermediate appeal had ruled that the action would not lie. To make out the woman's disability, precedents were cited from the time of Lord Coke. Stress was laid upon pronouncements in those days that a man had a property right in the body of his wife. A wife, it was said, had none in the body of her husband. Stress was laid also upon ruling made in days when the wife was unable, unless the husband joined with her as plaintiff, to sue for any wrong. We did not ignore these precedents, but we held them inconclusive. Social, political, and legal reforms had changed the relations between the sexes, and put woman and man upon a plane of equality. Decisions founded upon the assumption of a bygone inequality were unrelated to present-day realities, and ought not to be permitted to prescribe a rule of life. (*Cf.* R. *v.* Jackson, 1891, I. Q. B. 671.) The historical method was the organon of judgment in each court.[129]

Any further hesitancy to protect such rights by equity courts is not easy to comprehend; for the law has reached a point where recognition of the fictions formerly employed is

[127] Chafee: The Progress of the Law, Equitable Relief against Torts, 34 Harv. L. Rev., 388, 413 (1921).

[128] *Ibidem.*

[129] Cardozo, *The Growth of the Law*, Chap. IV, pp. 105-106 (1924).

gradually enlarging and the analogy as to the value of the services of a minor daughter disappearing. It is more apparent that, if the father were extremely wealthy and the child poor, the father would still be able to protect the personality right which he enjoys toward the child. The same is true if the child is wealthy and the parent poor. The real reason is that there is no actual property right in the old sense present in a suit of this character.

Legal scholars see in these cases that:

> There is distinctly discernible a tendency on the part of the courts to afford a more adequate protection to personal rights.[130]

The persistence of some courts in masking the protection of such rights by seeking an appearance of substantial or shadowy property rights as the basis of jurisdiction is not helpful in the progress of the law and is illustrative of a method which should be deprecated vigorously.[131]

In giving affirmative relief, courts of equity show a sound tendency to supply needed protection. This need is well expressed in an introduction to a recent case-book on the subject:

> The growing complexity of human relations and the increasing power of government officials over the activities of citizens afford abundant opportunity for wrongs which disturb the liberty and emotional life of the individual as well as his control over property. Situations constantly arise which are too delicate to be satisfactorily handled in actions for damages. They call for the flexibility of prevention and other specific relief, if only practical obstacles and the barriers of precedent are overcome.[132]

In summarizing the present state of the authorities, we may adopt the language of a leading American digest:

> The variety of cases above referred to in which personal rights are really protected by courts of equity shows that, while it is a commonly accepted theory that their jurisdiction must rest upon rights of property, there are at least many exceptions to the rule. Among

[130] T. D. Theobald: Does Equity Protect Property Rights in Domestic Relations, 19 Ken. L. Journ., 1, 57, 59 (1930).

[131] J. Frank, *Law and the Modern Mind*, Chap. VI, p. 237 (1930). "Hesitant avowal has begotten conduct that is spasmodic and irregular; there has been a feeling, inarticulate to some extent, that the conduct was something to be deprecated, something calling for excuse."

[132] Preface to "Cases on Equitable Relief against Defamation and Injuries to Personality," by Roscoe Pound. Introd. by Z. Chafee, Jr., p. 3 (1930).

them cases of contract, trust, or breach of confidence relating to personal rights, cases respecting the education and custody of children, and cases relating to the right of privacy and reputation, such as those restraining the publication or exhibition of photographs or other representations of the person and the publication of private letters. In addition to these are the cases relating to the security of the person and the protection of health and physical comfort. While in many of these cases the jurisdiction is nominally based on an alleged property right, it is plain that the observance of the rule that equity will be limited to rights of property is little more than nominal. In all this class of cases equity does concern itself about personal rights as the real subject of consideration.[133]

This has been approved in a leading case [134] on the subject and has likewise been approved by a foremost scholar: [135]

It is submitted in conclusion that the promises of the ante-nuptial agreement, fulfilling as they do all the formal requirements of a civil contract, and giving an added right of personality to the Catholic party, should be and will be enforced by courts of equity, which are drawing away from historical, artificial limitations of jurisdiction and progressing with a sound legal appreciation of the inherent capacity of the law to develop with the needs of the present.

[133] 37 L. R. A. 787 (1897). Cf. also J. R. Long, in 33 Yale Law Journal, 115, 116, 117, 132 (1923), who says:

"The jurisdiction of equity does not properly depend upon the nature of the right involved, whether a right of person or of property; the sure test of equity jurisdiction is the existence of a justifiable right for which there is not a full, adequate, and complete remedy at law.

"At any rate cases involving personal rights are becoming common in courts of equity, and the doctrine that these courts have no jurisdiction to protect such rights is being discarded before it had become really established by judicial action. . . .

"From this review it must be clear that the doctrine that a court of equity has no jurisdiction to protect personal rights is unsound in principle and unsupported by controlling authority. Originating in what appears to be a mistake as to the real significance of the existence of a property right as a jurisdictional fact,—namely, that it justifies the court in taking cognizance of cases otherwise beyond its jurisdiction, it has not as yet had the support of a single case known to the writer in which the denial of equitable relief was based squarely and solely on the ground that the right involved was a personal right. On the other hand, there has already accumulated a respectable body of decisions in which courts of equity have protected personal rights, either frankly dealt with as such or thinly camouflaged as property rights. It would seem that the time has come for the courts to discard this unsound dogma, which while it has probably never caused a denial of justice in actual decisions, stands in the way of the logical and symmetrical development of the law by courts of equity."

[134] Ex parte Warfield, 40 Tex. Crim. Appeals, 413; 50 S. W. 933 (1899).

[135] R. Pound: See various writings, *supra*.

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DID WE LOSE 18,000,000 CATHOLICS BEFORE 1870?

IN the interest of historical truth, especially that branch of it which is concerned with the records of the Catholic Church in the United States, it seems worth while to weigh the evidence for several statements cited in a paragraph of an article that recently appeared in THE ECCLESIASTICAL REVIEW. The paragraph reads as follows:

> The conclusion which a careful study of the figures in *The Official Catholic Directory* and in the U. S. Census Bureau Reports forces upon us—that the Church has suffered annually appalling losses of born Catholics—recalls statements by discerning scholars of similar proportionate losses in the previous century. So careful a scholar as Bishop England is authority for the statement that the Church had sustained a loss of three and a quarter (sic) millions between 1786 and 1836. In 1864 the *Tablet* estimated a daily loss of half a thousand. Ten years later the *Irish World* figured that, between the close of the Revolutionary War and 1870, the Church had lost eighteen million. That these conclusions of our observing scholars of a previous generation may well have been within the margin of the actual facts would seem to be borne out by the enormous defections of born Catholics which the Church has been suffering in recent years.[1]

In reality these statements belong in the same category with such oft-refuted calumnies against the Church as that of the alleged debate as to whether woman is possessed of a soul, and others of like stamp. The former have not, indeed, been answered as often as the latter, but they have been answered as conclusively and disproved as completely. Yet they still possess vitality; in the particular instance of the paragraph quoted above they rise from the grave where O'Gorman [2] had decently interred them, and with no resurrection grace to make them presentable they would walk among the living once again.

They belong, too, in the category of the myth of "soulless woman" and the rest, because they are, after all, not merely

[1] Dr. John A. O'Brien, "Did We Lose Half a Million Catholics Last Year?", ECCL. REVIEW, vol. LXXXV, Dec. 1931, p. 585.

[2] "History of Roman Catholicism in the United States, pp. 489 ff.", is the reference given by Dr. O'Brien and there most of the statements cited are found (correct title, *History of the Roman Catholic Church in the United States*).

pure fabrications of some completely irresponsible and warped mentality. There was, indeed, a Macon council; there was a discussion at it as to what word to use by which to designate both man and woman. Such was the origin of the "soulless woman" myth. So in the United States there certainly have been losses sustained among our Catholic population. These losses have been discussed long and often. Seldom do the discussions fail to go back, for support or in other ways, to what is the progenitor of them all—Bishop England's statement of 1836. The analogy practically ceases there, however. The basis of the later statements may be said to be that of Bishop England; his statement, however, is best described as without any basis at all except the very general fact that, because the Church is constantly called to mourn the loss of those who fall by the wayside, so the good Bishop could observe the phenomenon operating in his own diocese. But not grasping well the facts, nor investigating the data which were indispensable and could have been made available, Bishop England made a most unscholarly computation marked by entire absence of scientific care. It is strange, then, to see applied to him the designation "careful scholar" in connexion with this particular question—especially when we note that this reference to England is taken from a passage in O'Gorman in which the latter is at great pains to point out the fallacy of England's computation, a proceeding in which he meets with no inconsiderable measure of success.

Bishop England's statement is usually quoted in such bare fashion that only the bald charge of loss appears, the amount only being specified. The reasoning by which he arrived at such a conclusion is not ordinarily presented, but instead an appeal is customarily made to the authority of the sponsor of such a charge. This bald charge is to the effect that the Church had lost three and *three-quarter* millions of members in the fifty-year period 1786-1836. It may be noted that, as in the quotation from the December, 1931, issue of the REVIEW, Bishop England is usually quoted incorrectly, he being cited as alleging a loss of only three millions and *one* quarter. Apparently O'Gorman is responsible for this error. It is found in his pages and is usually gravely quoted from him without adverting to the fact that Bishop England deducts one

million and a quarter from five million, so that the result when quoted as three million and *one* quarter but adds more bad mathematics to the rather weird computations of the original.

It is well, then, to quote here Bishop England's words at some length. It will require but a brief examination thereafter to discern how baseless was his computation. His words are taken from a letter which he wrote from Rome in 1836 to the central council of the Propagation of the Faith at Lyons in response to some inquiries that had been addressed to him. He writes as follows:

> Your questions require in some instances precise details which I cannot undertake to give you from this place; where the documents from which they may be furnished are not within my reach; nor do I think that I could anywhere procure exact returns such as you desire. . . . I have been long under the impression that not only in Europe but even in the United States, very delusive fancies have been entertained of the progress of the Catholic Church in our Union, and even many mistakes as to the means most conducive to its propagation. I have no doubt upon my mind that within fifty years millions have been lost to the Catholic Church in the United States nor do I believe that the fact has been sufficiently brought into notice, nor the proper remedies applied to correct this evil.
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> . . . To anyone who for a moment calmly considers the statement of your letter, nothing can be more plain than that, instead of an increase of the members naturally belonging to the Catholic Church in the United States there has actually been a serious loss. . . . I do not then mean to say that the number of Catholics is this day less than it was fifty years ago nor as small as it was five years since; but I do assert that the loss of members to the Catholic Church has been exceedingly great, when we take into account the Catholic population at the time of the American Revolution, the acquisition of territory previously occupied by Catholics, the arrivals of Catholic immigrants and the conversions to the Catholic religion.
>
> I submit the following rough estimate as calculated to give a notion of this loss:
>
> Fifty years ago the population of the United States was three millions; to-day it is fifteen millions. I shall suppose the natural increase of the original three to give us seven millions of our present number; this will leave us eight millions of immigrants and their descendants, together with those obtained by the acquisition of Louisiana and Florida.

Of the population acquired by immigration and by cession, we may estimate at least one-half to have been Catholics; supposing the children to have adhered to the faith of their parents, if there were no loss we should have at least four millions of Catholics from this source, without regarding the portion which was Catholic fifty years ago, and its natural increase and the many converts and their descendants. Yet there are many who this day are well informed upon the subject of our churches, who doubt if we have one million of Catholics. Four years since my estimate was little more than one half million. Upon my first arrival in the United States in 1820 I saw in a public document, coming from a respectable source, the estimate to be 100,000, and this favorable and from a gentleman by no means unfriendly. I have since then made more close inquiries, taken more special notice of details, and received better information, and I think the estimate may be safely fixed at 1,200,000.

. . . If I say, upon the foregoing data, that we ought if there were no loss, to have 5,000,000 of Catholics, and that we have less than one million and a quarter, there must have been a loss of three millions and three quarters at least, and the persons so lost are found amongst the various sects to the amount of thrice the number of the Catholic population of the whole country.

I estimate the Catholics of my diocese at less than 12,000, and the descendants of Catholics in the various sects at about 38,000 or 40,000. The coincidence of the results creates a strong probability, it is indeed presumptive evidence, of the correctness of each estimate. And we may unhesitatingly assert that the Catholic Church has, within the last fifty years, lost millions of members in the United States.[3]

It would be tedious to scrutinize all the mathematics and all the questions of fact involved. Let us simply take certain facts of which there is no question and examine their bearing on the "data" which he adduces. The first census of the United States in 1790 listed the population as 3,929,625, and it is generally agreed that about 35,000 of these were Catholics. The total population was practically 13,000,000 in 1830 and 17,000,000 in 1840, so that an estimate of 15,000,000 in 1836, such as the Bishop made, is not far wrong. Now Bishop England argued that of those 15,000,000 some 7,000,000 represented the original stock—the 3,929,000 plus their natural increase only. He held that Catholics should have numbered

[3] Cf. *Works of Bishop England*, J. Murphy, 1849, vol. 3, pp. 226 ff.

5,000,000 in 1836, of which 4,000,000 were of immigrational stock. In other words, he posits that the 35,000 of 1790 had by natural increase alone grown to 1,000,000; that is to say, that they had multiplied almost *twenty-nine* times. He leaves therefore 6,000,000 to represent the original non-Catholics of 1790. They numbered 3,900,000 in 1790. Hence his argument posits that, while the Catholics, by natural increase alone, multiplied nearly *twenty-nine* times, the non-Catholics multiplied a trifle over *one and one-half* times. Yet he is referred to as a " careful scholar ".

His argument with regard to the immigration is perhaps even more wide of the mark. The immigrational stock of 1836—immigrants plus their natural increase between 1786 and 1836—numbered, according to him, eight million. Statistics on these points for these years are not plentiful, it is true, but we have sufficient data, nevertheless, to prove that England's 8,000,000 estimate was absurdly erroneous. The total net immigration for the fifty years in question was some 600,000. Of this number nearly one-half was recorded as entering in the period 1831-1835. In this connexion we have, too, the recorded fact that in 1830 there were only 107,832 non-naturalized foreigners in the United Etates.[4] Hence in 1836 the immigrational stock of the preceding fifty years was in the neighborhood of three quarters of a million, instead of England's 8,000,000 (while the original stock was somewhat over 14,000,000, instead of the 7,000,000 posited by him). Bishop England's estimate of the immigrational stock was that it should be one-half Catholic. Even according to this unwarrantably high proportion the Catholic immigrational stock of this period would have been, therefore, 375,000. If every one of these had been lost to the Church, a supposition that is naturally preposterous, the loss would have been exactly *one-tenth* that alleged by the doubtless saintly, but by no means mathematically inclined, Bishop of Charleston. He hardly merits, then, the appellation " careful scholar ".

It is impossible to prove definitively any direct lineal connexion between Bishop England's computation and all later

[4] For data cited in this paragraph cf. *Statistical Review of Immigration, 1820-1910*, Government Printing Office, 1911, pp. 4 and 409; *Compendium of U. S. Census, 1850*, p. 122; *A Century of Population Growth, 1790-1900*, Government Printing Office, 1909, p. 56 and passim.

allegations of excessive loss by the Church. Yet these allegations are frequently cited with his statement and they are, practically without exception, of a similar nature. So striking is the similarity that one is almost justified in terming the crop another Jukes family, as it were.

The REVIEW article cited above next quotes the 1864 "estimate" of the *Tablet* of a daily loss of half a thousand. The method of computation—"daily"—is in itself rather grotesque. It becomes more so when we multiply the figure and find the loss amounts to 182,500 per year or nearly 2,000,000 every decade. It is, therefore, substantially the same as the following citation from the *Irish World* to the effect that "between the close of the Revolutionary War and 1870 the Church had lost eighteen million".

The implications here are tremendous and when we begin the work of interpretation and analysis they gradually come to light. The allegation is that there was an average loss of over 2,000,000 every decade. Averages are deceiving. In this particular computation we must practically discard the first five decades, for immigration was absolutely negligible during that period so far as millions are concerned. Hence we find the average decadal loss becoming something in the neighborhood of four and one-half millions for each of the last four decades of the period. Now the entire immigration, making no deductions at all for emigration or for the numerous immediate deaths of famine-stricken arrivals, was during the period in question (the end of the Revolution to 1870) only 7,622,238, of which over 6,650,000 came during the three decades 1840-1870. Not even one-half of this immigration was Catholic. Yet one-half of the total number would amount to only 3,811,000, and their natural increase, because of their late arrival, could not have been large. The Catholic population in 1870 was admittedly close to 5,000,000. The so-called estimate of the *Irish World* is thus seen to be entirely unworthy of any credence whatsoever.

Nevertheless it is worth while examining it from another angle, to bring out its inherent absurdity in perhaps even stronger relief. The actual Catholic population of 1870 was, as just stated, about 5,000,000. The *Irish World,* in stating that we had then lost 18,000,000, held, therefore, that the

Catholic population of 1870 should have been 23,000,000. Now the total population of the United States according to the census of 1870 was in that year 38,558,371. The *Irish World* would have us believe that the proportion of 35,000 Catholics to 3,900,000 non-Catholics of 1790 had by 1870 changed to 23,000,000 Catholics and 15,500,000 non-Catholics! It held, in other words, that the insignificant 35,000 should have grown to 23,000,000, while the 3,900,000, with at least the same amount of addition through immigrational increase (it was in reality, of course, much greater than that of the Catholics), should have grown to only 15,500,000. To put it in still another way, the allegation is that the 35,000 Catholics of 1790, though numerically less than 1/100 the number of their non-Catholic brethren, increased in such fashion (but by the same means) that in fifty years they came to outnumber the latter by almost 2 to 1.

In the cold light of facts such charges become so absurdly ridiculous that one is inclined to smile at them. The sad feature of these charges is that, absurd as they are, they practically permeate American Catholic historical literature; and that, though often refuted, they are constantly finding fresh sponsors to give to them a new lease of life.

They permeate and color Catholic historical literature. Thus, for example, we find Ford's *Irish World* statement—the one just discussed here—accepted by Murray's *Popular History of the Catholic Church in the United States*,[5] by Jules Tardivel in his *La situation religieuse aux États-Unis*,[6] by Mgr. Battandier in the 1919 *Annuaire Pontificial Catholique*.[7] We have the *ex cathedra* pronouncement of the Rev. J. L. Spalding in his *Life of Archbishop Spalding*:[8] "That, to confine ourselves to the period in which the hierarchy has been in existence here, we have lost in numbers by far more than we have gained, is, if I may express my opinion, *beyond all doubt*." In a footnote to this statement the author says, "We may, I think, safely accept the opinion of Bishop England, that . . . there was a vast total loss of Catholics to the Church." Constantly the trail leads us back to Bishop England. The opinion

[5] New York, 1882; p. 639.
[6] Paris, 1900; p. 257.
[7] P. 605. [8] P. 323.

of Fr. Spalding is quoted and adopted by Murray in his *Popular History*.[9]

The England or the Ford charge appears in another dress. Under the guise of comments on our immigration problem it makes its appearance on all sides—either to the effect that the Church here has suffered a tremendous loss, or that the Church loses more than she gains by immigration (the Spalding thought, based, again, on England). Thus the then Bishop McFaul of Trenton in his 1904 pastoral speaks of a 30,000,000 loss and he is duly recorded in the 1919 *Annuaire Pontifical*. Then Eugene Weare avers in *America*[10] that our Catholic population should have been 50,000,000 in 1923. Adam J. Loeppert in *Modernism and the Vatican* (an anti-Catholic work) alleges a claim that the Catholic population should have been 40,000,000 in 1911.[11] Finally, the familiar assertion that the Church as a whole loses by immigration reappears in the *Catholic World*.[12]

In the light of the discussion of the 1874 Ford statement it is apparent that all these charges or claims are without foundation. In many cases they are but a development of Ford's words. Always they exhibit a completely faulty treatment of the statistics of immigration, particularly when it comes to a discussion of nationalities. Many of them are simply *ex parte* pleas; none of them adduces solid reasoning in self-substantiation; generally they simply make an appeal to discredited authority. Typical of the *ex parte* plea is the claim made by de Nevers in his *l'Ame Americaine*[13] that the "Irish of the second generation generally give up the Church". Typical is the lucubration of a worthy who under the mantle of anonymity held forth in the *Fortnightly Review*.[14] Having in a previous number (Mid-Nov., 1912) "discovered" that the Church had lost 63,000,000 in the United States, Canada, the British Isles and Germany, he regales his readers with the following delectable, if somewhat heretical, morsel: "One chief cause of the apostasy of so many Catholics in my opinion is the use of a Protestant and Protestantizing language. Eng-

[9] P. 583.
[10] Vol. XXIX, 5 May, 1923, p. 55.
[11] P. 298.
[12] Vol. CXVI, Jan. 1923, p. 549.
[13] Vol. II, p. 87.
[14] Vol. XX, No. 5, First March Issue, 1913, p. 138.

lish is a Protestantizing language, and all the nations who adopt it—unless they be situated quite differently from ours—will, in the long run, turn Protestant. All we can do in the matter is to postpone the change. To prevent it is almost impossible, too many causes are at work."

There are three underlying defects that vitiate the computations of these writers who so lightly speak of such overwhelming Catholic losses here. They overestimate the gross immigration (apparently seldom, if ever, consulting the records); they take no account of the emigration from this country, and they overestimate the proportion of Catholics to be found in the immigration.

In the century from 1820 to 1920 the total immigration to the United States amounted to 33,654,803. Not until the decade ending in 1890 did the immigration for any decade equal 3,000,000. Of this total 26,277,000 entered after 1870—this fact having a decided bearing on the possible immigrational stock present in the country during the decades of the century.

The point that is perhaps most generally overlooked is that there is an emigration movement from the United States. In times of financial stress or panic it reaches its crest, but it is not inconsiderable at other times. The immigrants who die previous to the first census following their arrival here must also be deducted from the total immigration. After due allowance is made for the factors, we find that the *net* immigration for the century was 20,120,000. Of these nearly 13,000,000 entered after 1880.

Finally, despite the alarmist cries of the nativists, the proportion of Catholics in our immigration has never been so large as many allege, nor has anything like a majority of our immigrants come from Catholic countries—decidedly the contrary is true. Of the gross immigration, 19,062,000 came from non-Catholic countries. The total, therefore, from Catholic countries was 14,592,000. The net Catholic immigration for the century is found to be 9,343,000, of whom nearly 6,000,000 entered the country after 1880.[15]

[15] The statistics cited in the preceding paragraphs may be consulted in Shaughnessy, *Has the Immigrant Kept the Faith?*, passim, especially in the decadal and summary tables.

Such are, briefly, the facts in regard to the alleged Catholic losses of the century. They will be found variously set forth in O'Gorman, *History of the Roman Catholic Church in the United States* (1895), who gives John Gilmary Shea's decadal computation calling for a Catholic population of 10,627,000 in 1890. The late Archbishop Canevin, using the same kind of decadal computation method set forth his findings in *Truth* for April, 1912, in the *Catholic Historical Review* for January, 1917, and in a pamphlet published (n. d.) about 1923, entitled *Catholic Growth in the United States. Has the Immigrant Kept the Faith?* is a lengthier discussion of the subject. Dr. Guilday in his *Life and Times of John England* devotes a chapter to a discussion of England's letter to the Lyons council.

Surely, then, it is not asking too much of American Catholic scholarship to suggest that this myth of a constant and appalling immigrational Catholic leakage be relegated, with the myth of soulless woman, to the limbo of discredited and disproved attacks upon the truth.

Precisely here, however, lies another pitfall. It does not follow that, because these irresponsible allegations of loss are false and unfounded on fact, that no one ever falls away from the faith here. Although the gates of hell shall not prevail against the Church of Christ, yet will they always wage relentless war upon it and always will some stragglers be found succumbing in the fight. There is leakage here. Secular education—the public school and the secular university—take a heavy toll, if not by destroying the faith of Catholics, certainly by weakening and attenuating the faith of many. Irrespective of schools, the epicurean, the hedonist, the pragmatist and materialistic philosophy of a pagan press constitutes a menace to the faith of Catholics. Similarly, mixed marriages are a danger. The result especially manifests itself to the observer in the form of a critical attitude toward the Church and her ministers, a tendency to minimize the doctrine of the Church and to apologize for it—in short, an attitude that can be best described as the seed of anti-clericalism. All this constitutes a problem which we must cope with by intelligent methods that savor neither of the pessimism of the alarmist nor of the smug optimism of his opposite.

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Studies and Conferences

Questions, the discussion of which is for the information of the general reader of the Department of Studies and Conferences, are answered in the order in which they reach us. The Editor cannot engage to reply to inquiries by private letter.

ORGANIZING BOY WORK IN DIOCESE OR CITY.

The formation of groups of boys and girls for leisure-time activities has almost become an industry. Although we hear much more about successes than failures, the present condition of character-training organizations is by no means satisfactory. The achievements are nothing in comparison with the efforts and the money spent. As a rule, within the space of a year or two everything that was built up has tumbled together again. Here is something fundamentally wrong. One reason for this state of affairs may be that the type of organization selected was not suitable nor capable of sustaining interest. But much blame is attached to the lack of good leadership. This in turn is the consequence of the lack of a proper foundation. This foundation, which is thorough organization, is even needed where a national organization is adopted. Hence, a few practical hints on organizing boy work—the same holds true for girls work—on a diocesan or city-wide scale.

In most cases boy work will best be placed under the diocesan charities, forming a special section of the division of social action or recreation. This office will serve as the diocesan headquarters to which, in larger cities, local headquarters dependent upon it may have to be added. The reasons for establishing such local headquarters are obvious. Activities need coördination, equipment has to be supplied and the demand for leaders must be filled. These things can best be taken care of by a headquarters on the spot, although it may increase work and personnel. The bodies constituting both headquarters are the directorate headed by the diocesan or local director and the staff under the professional executive secretary, who should be ex-officio a member of the directorate. Both bodies have their specific duties. The directorate

or board is executive and concerns itself with matters of policy, finance, and administration. The staff tends to organization, providing leaders and assistants, organizing coöperative activities, supplying needed equipment, forms, records, etc. A special educational committee might be formed to train leaders, issue bulletins and hold examinations for leadership and promotions. A number of chaplains should deal with religious factors, otherwise there is danger that recreation will become an end instead of a means.

FORMATION OF THE BOARD.

The gathering of men to act as board members is second only to the problem of acquiring leaders. An invitation issued in some form to all men of the diocese in general will not draw the best material, nor will it receive the attention it merits. What is everybody's business is, practically speaking, nobody's business. Nevertheless some general announcements should be inserted in newspapers or parish bulletins for the purpose of preparing the public for what is coming.

The best material for directorates or boards will undoubtedly be found among the members of the St. Vincent de Paul Society, Third Order, Holy Name Society, Sodality, the different men's societies, clubs that are not political, and the learned professions. The approach to these men might be made through an announcement at their meetings, but this ought to be followed up by a personal communication addressed to men listed by the secretaries of the organizations or suggested by the pastors. It is well to approach as large a number as possible, since only in this manner will be found a sufficiently large number of useful and practical men from whom to select.

Having received a sufficient number of promises to attend (by means of return post-cards), a series of meetings should be arranged with the object of placing before the men the reasons for organizing boy work on a diocesan or city-wide plan, the coöperation required, the kind or variety of boy work best suited for the type of boys to be enrolled, the help and means needed to operate successfully, the organizations willing to sponsor the movement and the formation of an executive committee called the board or directorate proper. Three or four meetings, according to the number of obstacles encount-

ered, ought to be sufficient. As a rule, the national Catholic organizations can supply speakers for these meetings and courses mentioned later. These speakers must be well acquainted with boy work by practical experience; otherwise they will repeat the advertising matter that long ago became a staple article. Too many have been deceived and discouraged after a short time by this kind of information.

LEADERSHIP.

For leaders, well-educated and morally firm young men between the age of about 23 and 40 years are the best. Some younger men may be utilized as assistants. For reaching them, the following means have been used with more or less success: 1. announcement made from the pulpit; 2. circularizing selected lists furnished by young men's societies, college alumnies, clubs and recreational organizations; 3. advertising in local or parish papers and placing posters in places where they are seen by many; 4. speaking personally to young men who seem to have the required qualities and leisure; 5. communicating with Catholics whose names are found on the roster of the C. M. T. Camps. In cases where chaplains supply names, their aid should be solicited for making contacts.

The gathering of leadership material is necessarily followed by leadership training. On this, success depends. A general knowledge of this or that activity is not sufficient. If it is not possible to provide a fairly thorough training, boy work on a large scale should not be attempted; and if attempted, it will not succeed for any length of time. Professional leaders are trained at the University of Notre Dame and other educational institutions. Although these leaders are needed as executive secretaries, the bulk of the work must be done by volunteers. To these attention is directed at present.

Volunteer leadership training may be imparted by correspondence and reading courses, by lectures or by gathering experience whilst working with boys. The last is the most laborious and the least systematic; and the first brings with it the danger that everything theoretical is passed over. The very best is a combination of all three: lectures, reading and actual practice. However, practice should not precede instruction.

A leadership lecture course of a theoretical and practical nature should not have less than eight or ten sessions each, with a lecture and discussion. The following matter should be covered, at least in an elementary way.

1. THE LEADER. Meaning of leadership. Necessary knowledge and qualities. Principles, object and ideals of leadership. Problems of leadership and their solution.

2. THE BOY. His characteristics, physical and emotional aspects. His likings and aspirations. Guidance and discipline.

3. THE WORK. The practical kind of boy work selected. Its handbook or manual. Program and activities. Pastoral aspects. Helpful community resources and contacts. Sources of success.

Catholic national organizations will be able to furnish a more extensive outline together with source materials. Moreover, there are some good and helpful books on the market. No doubt, local and personal problems will arise, but they can be dealt with in conferences or seminars held monthly or occasionally. In New York these conferences are held regularly and are indispensable at a time when city-wide activities are contemplated. Examinations, conducted at the end of the course, will promote study and zeal.

OTHER MEANS TO SUCCESS.

In order to get the wholehearted coöperation and support of boy work from parents and the Catholic public at large which is so necessary for success, much adult education has still to be done. Many do not see yet the necessity of providing good recreation and the extending of aid to make a proper and beneficial use of leisure time. Many do not realize yet that crime is a leisure-time activity. It is not hoped that Catholics will make social work a religion; but more interest in the young might well be expected.

In the training of leaders as well as in adult education the laity will expect the guidance of the clergy. In fact, this guidance is indispensable if work for the young is ever to become Catholic action. Unfortunately, many priests leave the seminary without any training for the difficult and arduous work before them in the field of guidance of youth. More

would be done for our boys and girls in social activities if students were to receive some information about this type of work, either in connexion with pastoral theology or sociology or by listening occasionally to a lecture on the organization and leadership of youth by Catholic men or women, men, qualified by long and active experience to give some inside and outside information. There should be at least in every seminary library all the works of Catholic writers on this subject. There are not many, though their number is steadily increasing. Their point of view is entirely different from that of non-Catholic authors.

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CATHOLIC SCOUTING IN ENGLAND.

The heading of this article would seem to imply that Scouting amongst Catholics in this country has some separate organization. This is certainly not the case.

We assisted at the birth of the movement, and our ecclesiastical authorities from the outset foresaw the great potentialities of the Scout method of character training for Catholic youth. The religious policy of the Boy Scouts Association has made it possible for every denomination to form groups of Scouts which can be controlled by the authorities of the church or chapel to which they may be attached. The movement in this country is, therefore, inter-denominational in the sense that no one by joining it need sacrifice his religious principles or put his faith in jeopardy.

Accordingly it has been the policy of those who have guided us in taking up Scouting, to encourage Catholics to throw their weight and influence into the National Movement rather than to attempt an organization of their own.

It should be noted that the wording of the First Scout Promise places the movement on a definitely religious basis:—

> On my honour I promise to do my best
> to do my duty to God and to the King.
> (or to my Country, if it be a republic.)

When the Chief Scout was contemplating the fundamental principles of his code, he consulted amongst others His Eminence Cardinal Bourne, Archbishop of Westminster. His Eminence made it quite clear that unless the movement emphasized the essential principle of duty to God, with absolute freedom to develop in the minds of the boys the religious doctrines of the Church, we, as Catholics, could not be associated with the movement. The promises were, therefore, drawn up as we know them to-day.

I promise on my honour to do my best
1. To do my duty to God and to the King
2. To help other people at all times
3. To obey the Scout Law.

The Religious Policy as set out in "Policy, Organization and Rules" of the Boy Scouts Association is as follows:—

I. It is expected that every Scout shall belong to some religious denomination and attend its services.

II. When a Group is composed of members of one particular form of religion, it is hoped that the Group Scoutmaster will arrange such denominational religious observances and instructions, as he, in consultation with its Chaplain or other religious authority, may consider best.

III. When a Group consists of Scouts of various religious denominations, they should be encouraged to attend the services of their own denomination, and Group Church Parades should not be held. In camp any form of daily prayer and of weekly Divine Service should be of the simplest character; attendance being voluntary.

It will be seen from the above extract from our Rules that the religious principles of all denominations are fully recognized; but it need hardly be said that Catholic Troops for Catholic boys is what is aimed at. In country districts this cannot always be achieved. Meanwhile, the Catholic boy in a mixed Troop is safeguarded.

There have been complaints that Catholic Scouts are sometimes drawn into some form of joint service, or prayers, especially in camp. In consequence of this the following notice was published in *The Scouter* of March, 1928, the official organ of the Boy Scouts Association, by authority of the Executive Committee:

It is the rule of the Roman Catholic Church that its members cannot take part in any religious observances other than those of their own Church, and it is the duty of Scoutmasters scrupulously to respect that rule.

It must be admitted that the clergy were at first very slow to recognize the merits of the new movement or to appreciate that Catholic principles had been so well considered and protected. Catholics generally are under an immense debt of gratitude to Bishop Butt (Bishop of Cambysopolis and auxiliary Bishop for the Archdiocese of Westminster) for the great work he achieved in assuring the clergy at home and abroad of the value of the movement to the Church. The first Scout Prayer Book was compiled by Bishop Butt. It gives an excellent interpretation of the Scout Law and in a way which every boy can understand.

CONTROLLED GROUPS.

A complete Group consists of Wolf Cubs of 8 to 12, Scouts 11 to 18, and a Rover Crew for young men of 17 and over.

Our Catholic Groups are in almost every instance attached to the parish church, and so are registered as Controlled Groups. The parish priest is regarded by the Boy Scouts Association as the Controlling Authority. He may, however, place the Group under the control of the Society of St. Vincent de Paul, which is now officially recognized as a kindred Society by the Boy Scouts Association. The Controlling Authority has the right to nominate the officers of the Group, and the Local Association must appoint them as warranted Scouters unless there is some very good reason for not doing so.

The *raison d'être* of the Controlled Group is to keep the boys attached to their own Church, and to maintain in their after-school life the religious atmosphere in which they have been brought up.

In addition, it does give the boy the incentive to fulfil, quite voluntarily, his promise of doing his duty to God by taking part in the services of his Church and in the activities of his parish.

CATHOLIC SCOUT AND GUIDE ADVISORY COUNCIL.

As the movement has gradually developed in Catholic circles in this country, it was thought advisable to form an organiza-

tion which could coördinate and, where necessary, guide the activities of Catholic Scout workers throughout the country. With the approval of the Boy Scout Association a Catholic Scout Advisory Council was established. The objects and aims of the Council are as follows:—

1. To assist the Boy Scouts and Girl Guides Associations to develop both movements in Catholic circles.

2. To encourage the formation of Local Organization for the establishment of Catholic Troops and Guide Companies in every diocese in Great Britain.

3. To act in an advisory capacity to the bishops and clergy and lay organizations requiring information as to the organization of the kindred movements in our Catholic parishes.

4. Generally to protect the interests of Scouts and Guides joining open Troops and Companies and to ensure compliance with the religious policy of both movements.

5. To encourage the closest coöperation with Local Associations throughout the country.

6. To organize such propaganda as may be deemed desirable to obtain the active support of our Catholic schools.

7. To link up the Local Organizations for Scout Troops and Guide Companies and to coördinate the work that is being done.

8. To enlist the support of lay organizations and to encourage the formation of Troops or Companies under their direction.

9. To arrange conferences of Catholic workers interested in both movements at different centers throughout England and Scotland.

10. Generally to be responsible to the ecclesiastical authorities for the general direction of the movement in Catholic circles and to ensure harmonious relations with the Local Associations for Guides and Scouts in all parts of the country.

The Council does not aim at being in any way *Administrative*. It exists for the express purpose of encouraging Catholic participation in the National Movement under Imperial Headquarters. Catholic Troops and Companies are essential, but beyond this it is felt that coöperation and a fraternal spirit

will be always to the good both of the Catholic Church and the Scout Movement in general.

There are now several active diocesan branches of this Council, and under their guidance the movement is spreading in our Catholic parishes.

In many dioceses priests have been appointed by the bishop to act as diocesan chaplains for Scouts. It is their aim to explain to the clergy the advantage of Scout training, and to satisfy them that the direction of the movement gives absolute freedom to the Church in all matters concerning the spiritual welfare of the boys.

The aims of the Advisory Council can only be accomplished through the active work of the diocesan branches. In those dioceses where a branch of the Council has been formed, good progress has been made in the general development of the movement.

The activities of a diocesan branch of the Advisory Council may be summed up under the following headings:—

1. To bring before the clergy and laity the aims and objects of the Scout movement.

2. To explain the advantage to the Church of the development of the personal sense of duty in the mind of the individual boy through the Scout method of training.

3. To gain the whole-hearted support of the parish clergy and their coöperation in extending the movement throughout the diocese.

4. To ensure that our Groups are started on the right lines as suggested by the Boy Scouts Association leaflets.

5. To encourage the closest coöperation between Catholic groups and groups of all denominations in all matters concerning the general welfare of the movement.

6. To give every support to the District Commissioner and Local Association, and to encourage Catholics to take an active part in the general development of the movement.

7. To obtain the help of the right type of young laymen to act as Scoutmasters, instructors, or members of group committees.

8. To arrange with the District Commissioner for an elementary course of training for those prepared to give their services as Scout officials.

9. To obtain the active support of Catholic societies and to coöpt their representatives as members of the Diocesan Advisory Council.

10. With the consent of Local Commissioners to organize inter-parish church parades; and to arrange conferences of Catholic Scouters to discuss all matters concerning the general organization of Catholic Controlled Groups.

The aim of the Catholic Scout Advisory Council is to coördinate the activities of the diocesan branches. The Central Council meets once a year and receives reports of the work that has been accomplished by each diocesan branch. A week-end Conference is arranged at the same time as the annual meeting, when subjects of general interest are discussed.

THE SOCIETY OF ST. VINCENT DE PAUL.

Many of our Catholic Groups in this country are now under the control of the Society of St. Vincent de Paul. In some Groups members of the Parish Conference are actually the Scout officials. With the full support of the Conference behind them this is undoubtedly the ideal arrangement.

The duties of the Society acting as Controlling Authority of a Controlled Group may be stated shortly as follows:

1. To undertake the general administration of Scout Groups, under the direction of the clergy.

2. To obtain the services of suitable young laymen as Scout officials and to arrange with District Commissioners to pass them through an elementary course of training.

3. To appoint Brothers to assist the Scoutmasters by keeping the necessary books and to be entirely responsible for all Scout funds.

4. Generally to assist Scouters in all matters of administration and not in any way to interfere with actual Scout work, which comes under the direction and guidance of the District Commissioner and Local Association.

5. To call on the families of the poorer boys and to make arrangements for payments by instalments for uniform, and camp funds, when necessary.

It will be realized that the Society of St. Vincent de Paul, with nearly a thousand Conferences in England and Wales, could be the means of establishing many parish Scout Groups.

With the support of the clergy and with the assistance of well-trained young laymen, a very much larger proportion of boys could be brought under the influence of this popular movement. If each Conference throughout the country organized one Group of only twenty boys, this would mean that some twenty-thousand boys would be given the advantages of Scout training. At the moment we have about two-hundred and fifty Catholic Groups representing a total of about twelve thousand of all ages and ranks.

SCHOOLS.

An effort is being made to obtain the support of our Catholic colleges, secondary and elementary schools, by adopting some form of Scout training, as a means of preparing our laymen for social service. We are suffering from a shortage of workers in all fields of social action. The men that are passing through our higher grade schools are the type that are most needed. Some of our Catholic schools have Scout Groups that are definitely training men as future Scout leaders. Headmasters of schools have acknowledged that the result of this form of training has developed a most evident desire on the part of their senior boys to take up some form of social service when they leave school. If they cannot all be Scout leaders, at any rate they can join the Society of St. Vincent de Paul and help local Conferences to develop special patronage work amongst boys.

GENERAL POLICY.

Recognizing that the Boy Scout movement is non-sectarian but definitely inter-denominational, as has been explained, Catholics have realized the importance of taking an active part in its organization. In consequence many official positions are held by Catholics, but not in a denominational capacity. It may be that a Catholic is appointed a Commissioner in view of the fact that he may be able to help the particular Association to which he is attached to spread the movement in Catholic circles, but his primary duty is to give his services in the interests of the movement as a whole.

INTERNATIONAL ASPECT.

In conclusion it is important to realize the world-wide influence of the Catholic Church. The Catholic population of

the world is said to be about three hundred and fifty million; one-third of the population of the world. The Church has a great opportunity of using the Scout movement and the Scout method of character training. It is an opportunity that should be followed up in every country; keeping in view the difficulties that have to be faced everywhere in upholding the main principles of Christianity, viz:

1. Duty to God.
2. Love of our neighbor.
3. A deeper realization of the duties of Christian citizenship.

The Scout movement is a first-rate instrument, if rightly directed, for solving these difficulties. On the other hand it may become a danger, if Catholics, by ignoring it, should allow it to become a "religion". It cannot be ignored, for it has come to stay. It is good so far as it goes and, by putting the Faith behind it, it can be made a very valuable help toward expanding the Kingdom of God throughout the world.

NEAL CORBALLIS,
Chief Scout Commissioner.

CENSORING PARISH "SHOWS".

To the Editor, THE ECCLESIASTICAL REVIEW.

Was every manifestation, held on the seventeenth of March, a tribute of praise to Saint Patrick? A parish affair at which it was my social ill-luck to have to attend, certainly was not.

The audience was composed of the parishioners: anybody from eight years to eighty. The chief performers were "professional talent": in this case, talent that can unblushingly make others blush. And there in the parish-hall, in honor of Saint Patrick, I heard the filthiest joke of my stage-attending experience; I listened to a song cruder than the joke; I witnessed lewd dances, provoking enough to send the red to old men's cheeks; I had to stand a few stale jibes flung at families with children, and half a dozen of cheap buffooneries tending to vilify womanhood. Half of the show was an insult to Ireland's Saint, to Ireland's reputation as a country of high moral standards, and especially to the proverbial modesty of Irish womanhood; the other half was not worth listening to. I

would have felt much better had I attended with smoked glasses on my eyes and cotton in my ears; and still better had I not gone at all.

The Catholic Theatre Movement is a sure guide as far as Broadway is concerned. I was wondering whether it might not widen its scope, check up on some parish "shows", and issue a black list. It should have kept me away. It might have done the same for the balcony of screaming boys and girls, and for the clean-minded men and women of the parish. It pleased me to note that some of the people around me reacted very unfavorably.

Such a "show"! In the Parish Hall! In the shadow of the Church! And they tell me this is not an isolated case! What are the priest's moral responsibilities for sponsoring such an affair? How can he ever now open his mouth to so much as mention Christian modesty to his flock?

A. READER.

RECIDIVISM IN MISSING MASS.

Qu. Will you kindly develop more fully the doctrine concerning recidivists so briefly treated in your March issue?

When should a man who misses Mass frequently be treated as a *recidivus* and how should he be treated?

Resp. A recidivist may be defined as one who frequently falls into the same sins without any emendation, after many confessions. One should not be classified as a formal recidivist except when three conditions are present: (1) frequent (three or four times) *relapse* into sin, after having been seriously instructed by the confessor in three or four confessions as to the gravity of the guilt and as to the necessity of taking the proper measures to insure amendment; (2) relapse into the same sin; (3) absence of all, even an attempt at, amendment. One who would otherwise be called a recidivist should be classified as a material recidivist when any of the conditions specified do not obtain. Especially is this true when the third condition is not present, i.e. when the sinner shows some improvement or attempt at emendation. Practically the material recidivist presents no special difficulty to the confessor. The latter should encourage him, rouse him, in-

struct him, and certainly generally absolve him, as in dealing with any other sinner.

That which essentially constitutes a man a formal recidivist is the absence of firm purpose of amendment.

In discussing the question as to when to classify as a recidivist one who misses Mass we should weigh well the reason (apparent reason, excuse, pretext, motive), if any, that actuates the sinner. If a certain *mala fides* is not present he should not be classified as a formal recidivist. Now many who miss Mass frequently, do so, *de facto,* in a certain quasi faith, at least sufficient to enable them to escape the label of recidivist. Such are, for example, any foreigner whose religious education never inculcated upon him, in the way in which Americans understand it, the duty of attending Mass on Sundays and holidays of obligation; any others, foreigners or otherwise, especially, for instance, those educated in the public schools, of whom the same may be true; particularly, perhaps, members of a mixed-marriage family who, on this point, are often *occasionarii* in the necessary occasion of sin.

These and others of like sort do not, as a rule, realize well the seriousness of the obligation of hearing Mass. Hence, despite their repeated falls into this sin of missing Mass, they may have, nevertheless, the proper dispositions for the sacrament of Penance. If they have, they should be treated in the ordinary way by the confessor, who must determine according to the circumstances how far he can go in instructing these penitents on the point in question. It is quite evident, too, that much, if not all, of this instructing must be done in the confessional. It also should be fairly gradual. Hence a very long time may elapse in this process, and in some cases one may be forced to abandon hope of ever completely changing the more or less innate attitude of the penitent, and yet continue to absolve him because of his good faith.

When the proper dispositions are clearly not present, when there is no possibility of exculpating the penitent on the ground of good faith, the confessor has then to deal with a formal recidivist who must, if possible, be fired to the necessary sorrow and firm purpose of amendment. In this connexion it is well to remember that, contrary to some manuals, *extraordinary* signs of sorrow, etc. are not to be required as proof

of the proper dispositions on the part of a recidivist. The rule simply is that if the confessor deems a penitent, even a recidivist, here and now worthy of absolution, he will absolve him. If not, he will, naturally, defer or deny absolution. But in these points the recidivist whose sin is missing Mass, is to be handled according to the rules that govern the treatment of any other recidivist.

In conclusion it may be remarked that the sin of missing Mass is one that, so to speak, is foreign to the psychology of the confessor. Many confessors find it hard, therefore, to understand the psychology of the sinner who commits that particular sin and they are apt to accuse too quickly such a sinner of being a formal recidivist. The confessor should accordingly study the psychology of the one who misses Mass frequently, and where malice is not present he should be ready to deal as leniently with him as the canons of Christ-like mercy would suggest and permit.

RECKONING MIDNIGHT FOR DIVERS OBLIGATIONS.

Qu. On the night of Friday, 14 August, John ate meat at five minutes after midnight in his diocese. He did not sin, because it was after midnight. On the morning of Saturday, 15 August, he received Holy Communion and said he might do so because it was not 12.20 A. M. when he ate the meat. What is to be said of John's theology?

Resp. John's theology may be followed. The question is solved by Canon 33 of the Code, and its interpretation by the best canonists: "In supputandis horis diei standum est communi loci usui. Sed in privata Missae celebratione, in privata horarum canonicarum recitatione, in sacra communione recipienda et in jejunii vel abstinentiae lege servanda, licet alia sit usualis loci supputatio, potest quis sequi tempus aut locale sive verum sive medium, aut legale sive regionale sive aliud extraordinarium."

The same liberal interpretation is given in the *Epitome Juris Canonici* of Vermeersch-Creusen, edition of 1929, tomus I, page 105, end of 118: "Ista dispositione (i.e. by this Canon 33 and the choice it allows between various kinds of times) videtur nobis legislator, pro variis istis actionibus seu officiis

(i.e. for the private celebration of Mass, for the Breviary, for Holy Communion, for the law of fast or abstinence), tempus induxisse commune inter duos dies vel duas diei partes, quod utrique diei vel parti diei tribui potest. Quare nihil prohibet quin, secundum tempus verum, recites breviarium, legem abstinentiae secundum tempus medium observes, et secundum tempus legale ad jejunium eucharisticum attendas."

The old Canon Law was more severe: one had then to choose (at least on the same day) the same kind of time, even for divers obligations.

DISPENSATION FROM INTERPELLATIONS.

Qu. In regard to canon 1121 § 2: "Hae interpellationes fieri semper debent, nisi Sedes Apostolica aliud declaraverit," is the concession or declaration of the Holy Office of 11 August, 1859, still in effect? If so, in what cases may our Bishops dispense from the interpellations?

Resp. We surmise that our inquirer bases his question on the following statement made by Ayrinhac: "By a decree of the Holy Office of 11 August, 1859, all bishops and vicars-apostolic were granted that power [of dispensing from the interpellations] in cases of necessity when there was no time for recourse to Rome. It has not been withdrawn explicitly and, therefore, may still be exercised. (See can. 1125. It was included in the faculties granted to Ordinaries in the United States, Form T, n. 13)."[1]

The only rescript of the Holy Office of 11 August, 1859, regarding such a faculty, which we have been able to find reads: "An praetermitti possit interpellatio facienda coniugi infideli quando adest certitudo quod infidelis nec converti, nec cohabitare velit pacifice cum coniuge ad fidem converso.—R. Quoties coniugem infidelem nec Christi fidem amplecti, nec sine contumelia Creatoris cum coniuge converso velle cohabitare certo constet, Episcopi tamquam Apostolicae Sedis delegati, et Vicarii Apostolici, dispensare poterunt super interpellatione, dummodo urgeat necessitas, nec tempus suppetat recurrendi ad S. Sedem."[2]

[1] *Marriage Legislation in the New Code of Canon Law* (New York: Benziger Bros., 1919), n. 300.

[2] Fontes, n. 954; *Collectanea S.C.P.F.*, n. 1180.

The following copy of the faculty formerly granted our Bishops in form T, n. 13, has been very kindly supplied by the chancellor of one of our dioceses:

Dispensandi intra fines suae Dicecesis conjugem fidelem super interpellatione conjugis in infidelitate velicti, dummodo adhibitis antea omnibus diligentiis etiam per publicas ephemerides, ad reperiendum locum ubi conjux infidelis habitat, iisque in irritum cessis, constet saltem summarie et extrajudicialiter, dictum conjugem infidelem moneri legitime non posse, aut monitum, intra tempus in monitione praefixum suam voluntatem non significasse.

A cursory comparison of these two faculties shows they are quite different. The first could be used only in urgent cases of necessity, when time did not permit to seek a dispensation from the Holy See; the second could be used irrespective of any urgent necessity, even if time did permit seeking and obtaining papal dispensation. Hence, unless Ayrinhac is speaking of some other concession granted by the Holy Office on the same eleventh of August, 1859, it is not correct to state that the faculty defined in the rescript of the Holy Office of 11 August, 1859, was "included in the faculties granted to Ordinaries in the United States, Form T, n. 13." This latter faculty is wider than the former. Since all the faculties granted in the various "forms" before the Code and for the external forum lapsed 18 May, 1918,[3] it is certain that the faculty formerly granted our Bishops in Form T, no. 13, is no longer enjoyed by them.

What is to be said of the faculty mentioned in the rescript of the Holy Office, 11 August, 1859? It would be hardly correct to state that the Holy Office by this rescript really *granted* any new faculty. Apparently it is a mere statement of a power which custom had for centuries accorded the Bishops of the whole world in the circumstances mentioned at the end of the rescript. This faculty is in a more general way again acknowledged and renewed in canon 81: "A generalibus Ecclesiae legibus Ordinarii infra Romanum Pontificem dispensare nequeunt, ne in casu quidem peculiari, . . .

[3] With certain temporary exceptions for distant countries — S. C. Consist., decr., *circa quasdam ordinariorum facultates*, 25 April, 1918—*Acta Ap. Sedis*, X (1918), 190-192; decr. *de extensione facultatum quorumdam ordinariorum durante bello*, 2 August, 1918 — *op. cit.*, pp. 363-364; *circa facultates ordinariorum*, 7 March, 1921—*op. cit.*, XIII (1921), 134.

nisi difficilis sit recursus ad Sanctam Sedem et simul in mora sit periculum gravis damni, et de dispensatione agatur quae a Sede Apostolica concedi solet."

It is not certain that the formal interpellations are merely an ecclesiastical law: some hold they are of divine law. Still whether the one or the other view be adopted, the Holy See dispenses or "declares" the convert relieved from the obligation of making them—the terminology employed in canons 1121 § 2, 1123.[4]

Nevertheless it seems that in virtue of canon 81 taken in connexion with canon 1127, Ordinaries can dispense or "declare" converts free from the obligation of making the interpellations. This seems to have been the import of the rescript of 11 August, 1859; for its wording does not indicate that the Holy Office was bestowing any new faculty upon the Ordinaries, but merely asserts that for the given urgent circumstances Ordinaries act as the delegates of the Holy See. On the other hand, the words toward the end of the declaration specify equivalently the same circumstances demanded in the last part of canon 81.[5]

If then canon 81 empowers Ordinaries to dispense from the interpellations, it must be borne in mind that all three conditions added at the end must be verified at the same time.[6] The first condition is that ". . . difficilis sit recursus ad Sanctam Sedem". This does not necessarily imply an extraordinary obstacle that makes recourse to the Holy See more than usually difficult. It would suffice if the dispensation could not within a short time be obtained from the Holy See

[4] The latest faculties which the Propaganda grants Missionary Ordinaries, Formula III Minor, n. 24, 25 [*Periodica*, XI, (139)-(140)], retain the word *dispensandi*.

[5] It is strange that Vermeersch, who usually is quite generous, in explaining the most recent faculties granted by the Propaganda to vicars and prefects apostolic, in *Formula III major*, n. 24, [*Periodica*, XI, (139)-(140)], adds, hesitatingly, it is true (*ni fallimur*), as one of the cases where this faculty can be used: "quando alia via non suppetit vitandi grave damnum partium aut innocentis, nec tempus habetur S. Sedem adeundi". Beyond a doubt, that express faculty could be used in this case, but the question is whether canon 81 itself does not suffice for such an emergency. While Vermeersch makes no reference to canon 81, Vromant, *Facultates Apostolicae quas S. C. de P. F. delegare solet Ordinariis Missionum*, Museum Lessianum, Section Théologique, n. 16 [(Louvain, 1926), 81, II, 2], quotes him, but adds a reference to canon 81.

[6] G. Michiels, *Normae Generales* (Lublin: Catholic University, 1929), II, 483-486.

by the use of the usual means of communication, i.e. by mail. In this country the earliest an answer could be expected is about six weeks. Usually, it will take much longer.

Even if the Apostolic Delegate enjoys the necessary faculty for such cases and an answer could be reasonably expected in a much shorter time, the faculty granted in canon 81 could be employed, since it speaks of the difficulty of recourse only to the Holy See.

The second condition is the danger of serious harm that will arise on account of delay. This danger does not mean that the harm is absolutely certain, but that, all things considered, it can prudently be judged that the evil will with real probability ensue. This harm might threaten the parties, the Church in general or the faithful in a given place. In our circumstances the good disposition of the convert which might be threatened through delay, especially if a civil marriage has already taken place, would suffice. In the latter case the continued occasion of sin (which can be removed by convalidating the union through the use of the Pauline Privilege) will certainly suffice; the danger of serious harm would likewise usually be present if the interpellations were to be addressed to the infidel consort to the previous marriage who after a civil divorce had re-married. Here it will not be out of place to recall the necessity of a dispensation even in this latter case, for the Holy Office has declared that neither a divorce nor a second civil marriage of the infidel consort is sufficient to exempt from the obligation of the interpellation; but it added that if summarily and extrajudicially it were certain that the interpellation would be impossible or useless, a dispensation might be granted by the Ordinary if he enjoyed the necessary faculty or otherwise it might be obtained from the Holy See.[7] The third condition—namely, that the dispensation be one that the Holy See is accustomed to grant—is verified, since the Pope quite frequently dispenses or "declares" the convert free from the obligation of interpellating his infidel consort.

If these three conditions are all verified in a given case, it would seem that the Ordinary could dispense from the obligation of making the interpellations.

[7] 18 June, 1884—*Fontes*, n. 1088.

Finally, it must be remembered that the three constitutions at the end of the Code (Documents VI, VII, VIII) have been extended to the whole world, by canon 1125. And there can be no doubt but that in numerous cases the conditions laid down in these different constitutions are really present, with the result that one or the other can quite frequently be employed to dispense a convert from the obligation of making the interpellation.[8]

NUPTIAL BLESSING SEPARATED FROM MARRIAGE.

Qu. Owing to special circumstances the marriage of two Catholics cannot take place at the time of Mass. The Mass at which they assist the following day has been announced for a deceased person and this intention cannot well be postponed. But neither does this newly married couple give a stipend for the Mass. In such a case the following questions arise:

1. May the Mass of the day be said according to the intention of the donor, and the nuptial blessing be given, adding the commemoration *pro sponso et sponsa*, together with the special prayers after the *Pater Noster* and the *Postcommunio*?

2. Or on those days that permit it, may the *Missa pro sponsis* be said and the solemn nuptial blessing bestowed, while the Mass is applied for the deceased according to the intention of the donor?

3. Or should the solemn nuptial blessing rather be omitted?

Resp. Our inquirer fully understands the mind of the Church that, if the solemn nuptial blessing, to be given only at Mass, cannot be bestowed at the time of the marriage, it should be imparted later but at the earliest convenient time. However, there is, properly speaking, no obligation, even under pain of venial sin, of Catholics' receiving this blessing.[1] But it is not necessary to apply the Mass for the parties who receive the nuptial blessing, unless they have offered the stipend.[2] The Propaganda has moreover declared that, even though the fruits of the Mass are applied according to the intention of the person making the offering, the character of the Mass should be de-

[8] D. J. Gregory, *The Pauline Privilege*, The Catholic University of America, Canon Law Studies, n. 68 (Washington, 1931), pp. 83-90.

[1] Canon 1101. Cf. C. of Trent, *de ref. matr.*, c. 1; S. C. P. F., 21 September, 1843 ad 2—*Collectanea C. S. P. F.*, n. 971; Gasparri, *De Matrimonio* (3 ed., Paris, 1904), n. 1240.

[2] S. C. S. Off., 1 September, 1841, ad 3—*Fontes*, n. 886.

termined in conformity with the rubrics of the Missal.[3] Finally the Congregation of Rites has declared that, whenever the nuptial blessing is to be imparted, the *Missa votiva pro sponsis* must be taken, except when the rubrics forbid that votive Mass.[4]

The reply to our inquirer's first two questions then is:

(a) The solemn nuptial blessing cannot be given during the *tempus clausum,* except with permission of the Ordinary of the place.[5] Therefore also neither the votive Mass nor the commemoration *pro sponsis* can be taken.

(b) If outside the *tempus clausum* the rite of the day permits the respective *Missa de Requie* according to the intention of the donor, it would ordinarily be proper to say that Mass and postpone the nuptial blessing to some later convenient time.[6]

(c) If—as the inquiry intimates—the rubrics forbid a *Missa de Requie* but not the *Missa pro sponsis:* the latter together with the special prayers after the *Pater Noster* and the *Postcommunio* will be said, the fruits of the Mass being offered up according to the intention of the donor.

(d) If the rubrics forbid also the *Missa votiva pro sponsis,*[7] then the commemoration *pro sponsis* is added immediately after the first oration *sub unica conclusione.*[8]

To the third question the answer is that, if the solemn nuptial blessing cannot be given immediately, it should not be entirely omitted, but only postponed to some convenient day, no matter how long after the celebration of the marriage it takes place.[9] It might be given at the nuptial Mass of another couple,[10] during Mass on a Sunday or feast day or any other convenient

[3] 10 January, 1837—*Collectanea S. C. P. F.,* n. 852.

[4] 23 June, 1853, ad 1—*Decr. Auth. C. S. R.,* n. 3016.

[5] Canon 1108, 2 and 3; S. C. R., *de missa votiva vel commemoratione pro sponsis,* 14 June, 1918—*Acta Ap. Sedis,* X (1918), 332, or ECCLESIASTICAL REVIEW (1918), Vol. LIX, p. 406. While according to these the Ordinary can for a just reason permit the solemn nuptial blessing with the votive Mass or commemoration *pro sponsis,* as the case may be, this permission will not so easily be justified if the marriage has taken place earlier.

[6] Cf. S. C. P. F., 3 September, 1817—*Collectanea* S. C. P. F., n. 726; S. C. S. Off., 1 September, 1841, ad 6—*Fontes,* n. 886.

[7] E. g., on Sunday, feast days, feasts of the first or second class.

[8] *Additiones et Variationes in Rubricis Missalis,* til. II, *de missis votivis,* n. 2.

[9] Cf. canon 1101, § 1.

[10] Cf. S. C. S. Off., 1 September, 1841, ad 4—*Fontes,* n. 886.

day, provided the parties are present. This is of especial importance when the non-Catholic party to a mixed marriage, properly entered into, is converted. Not only may the nuptial blessing be imparted, but it is the desire of the Church that it be done.

SWALLOWING SACRED PARTICLE BEFORE IT DISSOLVES.

Qu. A person has been in the habit, when receiving Holy Communion, of allowing the Sacred Particle to dissolve wholly in the mouth without, as far as he is aware, swallowing any solid particle of the Host. Has he been receiving the Sacrament validly? Has he been making his Easter duty when you consider the words of our Lord, "Qui manducat meam carnem, etc."?

KANSAS.

Resp. All theologians affirm that, in order to receive the sacramental effects of the Holy Eucharist, a person must swallow the Sacred Host before it has been entirely dissolved in the mouth. See Tanquerey (*Tractatus de Eucharistia,* Cap. II de Sacramento Eucharistiae, Art. I de existentia et natura hujus sacramenti, last corrollary): "Ut sacramentum vere suscipiatur, necesse est ut species consecratae perveniant ad stomachum antequam dissolvantur; cum enim hoc sacramentum sit institutum per modum alimoniae, sequitur leges refectionis materialis; cavendum est igitur ne sacrae species in ore dissolvantur." Accordingly, he does not receive the Sacrament validly who allows the Sacred Particle to dissolve wholly in the mouth.

PLENARY INDULGENCE FOR HOLY SOULS.

Qu. Will you please solve this difficulty in a future issue of the REVIEW? Heretofore, it seems, the faithful have been instructed that, in order to gain the plenary indulgence for the Poor Souls on 2 November, all that is required is confession, Communion, a visit to the church, and prayer for the intentions of the Holy Father. And that is what they did. Few, if any, thought of saying special prayers for the poor souls during each visit. And that was correct enough, until the new Collection of prayers and pious exercises was issued by the Holy See in 1929. This Collection is from the year 1899 to the end of the year 1928. In the Foreword it is stated: "The prayers and good works, with Indulgences granted by the

Sovereign Pontiffs during the time and after the manner above described, and now published *with certain alterations*, do not avail for Indulgences according to the old form of grant, but according to the new form."

Now the new form for the good works mentioned above for All Souls' Day reads: "To the faithful, each time they visit any church, public oratory or (for those who have the right to use it) semi-public oratory, on 2 November, to pray for the faithful departed: Plenary Indulgence (applicable only to the souls in Purgatory) if they also confess, receive Holy Communion and pray for the intentions of the Sovereign Pontiff (S. C. Holy Office, 25 June, 1914)."

The question arises, whether or not it is now necessary to say special prayers for the poor souls in order to gain this indulgence? It is rather important, since, if all the prescribed conditions are not fulfilled, an indulgence cannot be gained. Is this a condition? Some think the "to pray for the faithful departed" is fulfilled by entering the church with the intention of gaining a plenary indulgence for them. In that case nothing need be mentioned about a change. But if, as seems to be the case, prayers for the faithful departed are *also* (*praeterea*) to be said, it is an important change that should be called to the attention of the people in charity to them and to the holy souls.

Resp. The official Latin text of the decree of the Holy Office (25 June, 1914) quoted by the inquirer, will help us to solve his question:

Sanctissimus Dominus Noster Pius Papa Decimus . . . benigne concedere dignatus est, ut die secunda Novembris cujuslibet anni, christifideles, confessi ac sacra Communione refecti, quoties aliquam ecclesiam vel publicum aut semipublicum oratorium, defunctis suffragaturi visitaverint, ibique ad mentem Summi Pontificis oraverint, toties plenariam Indulgentiam, animabus piacularibus flammis addictis tantummodo profuturam, lucrari valeant.

The conditions obviously required by this decree, for gaining on behalf of poor souls the plenary indulgences of 2 November, are confession, Communion, the visit to a church or public or semi-public oratory and a vocal prayer "ad mentem Summi Pontificis".

Is it also necessary to recite special prayers for the souls in Purgatory?

The English translation "each time they visit a church . . . to pray for the faithful departed" seems to make such a special

prayer obligatory. But this is not enjoined by the official Latin text: "quoties aliquam ecclesiam . . . defunctis suffragaturi visitaverint". The word "suffragaturi" is the participle future active (nominative plural masculine) of the deponent verb "suffragari" which means "to help, to support, to favor," and governs the dative. Therefore "ecclesiam visitaverint defunctis suffragaturi" means only the visit of a church for the purpose of helping the departed souls.

CRUCIFIX ABOVE ALTAR.

Qu. I have always been under the impression that a real crucifix must be placed on the altar or suspended over the altar. Now I am told that a picture in a stained glass window or a painting of the Crucifixion directly over and above the altar will suffice.

Resp. The "Rubricae Generales" of the Missal, Cap. XX, require that on the altar a cross shall stand, sufficiently large to be seen by the celebrant and the people. Moreover, the "Ritus celebrandi Missam" (Titulus II, 2) supposes that the cross bears a representation of our Lord crucified. Yet, if there is immediately behind the altar a large representation of the Crucifixion, such as a painting or a statue, this may count as the altar cross. So runs a decision given by the Sacred Congregation of Rites (No. 1270, ad 2^{um}), 16 June, 1663: "Si in Altari, in quo adest magna statua SS. Crucifixi, sit ponenda alia Crux, dum celebratur Missa?" Answer, "Est sufficiens, et non indiget alia cruce."

A stained-glass window representing the Crucifixion behind the altar would not suffice.

This legislation is clearly summed up in Wapelhorst's *Compendium Sacrae Liturgiae,* eleventh edition, 1931, p. 30, No. 21: "Super Altari in medio collocetur Crux cum imagine Crucifixi, quae ipsa tota candelabris superemineat. Si vero magna statua vel tabula picta SS. Crucifixi in altari jam adsit, altera Crux apponi non debet, nisi forte propter structuram tabernaculi Celebrans illam aspicere nequeat. Sit talis magnitudinis ut a Celebrante ac populo aspici possit."

PRAYERS FOR DONOR'S PARENTS IN MISSA QUOTIDIANA.

Qu. What prayers are said in the Missa quotidiana when offered for the parents of the donor?

Resp. A low Missa quotidiana pro defunctis must have at least three prayers: the first for the deceased person or persons in whose behalf the Mass is offered; the second according to the choice of the celebrant; and the third or last, "Fidelium Deus omnium," etc. If the Missa quotidiana is chanted, it must have only three prayers. (Additiones et Variationes in Rubricis Missalis, III, 10.)

When the Missa quotidiana is said for the donor's deceased parents, the first prayer should be the one entitled in the new Missal "Pro patre et matre"—making use of the parenthesis as follows: "Deus qui nos patrem et matrem honorare praecepisti: miserere clementer animabus *parentum nostrorum,*" etc. It is to be noted that in the new Missal this prayer No. 11 is no longer labelled (like the No. 7 of the old Missal) "Pro patre et matre *sacerdotis,*" but in a general manner, "Pro patre et matre." Hence it is suitable for the donor's deceased parents.

PERSONAL PRAYER OF CELEBRANT AT MASS.

Qu. Although we know that Sabetti and moralists generally say that the priest should beware of adding any kind of private prayers to the Mass, we have discussed whether he may not say, "My Lord and My God", when elevating the Host at Consecration, and whether he may not pronounce indulgenced ejaculations when he can conveniently do so, e. g. when purifying the chalice after he has consumed the Precious Blood and the ablutions.

Resp. Yes, moralists and liturgists agree that a priest, when he celebrates Holy Mass, prays in the name of the Church, as her official representative, and not as a private individual. He has no right to add, of his own initiative, any word to the approved text of the sacred liturgy. He should not, while officiating at the altar, express by word of mouth even the best sentiments which fill his own mind and heart. He may do so, very properly, in his thanksgiving after Mass.

The universal teaching of moralists and liturgists is summed up as follows by Prümmer in his *Manuale Theologiae Moralis,* tomus III (edition of 1922), p. 209, No. 304, 5°: " Non licet ex importuna devotione aliquid addere in Missa, et notanter non possunt ad libitum addi Collectae vel orationes." (S.R.C., No. 3832 ad 8.)

However, Lehmkuhl remarks that a priest who adds some ejaculatory prayers to the text of the Canon of the Mass may easily be excused from even venial sin: " Devotionis causa, per modum suspirii, oratiunculam jaculatoriam a sacerdote celebrante interponi, quando propter actiones a prosequendis liturgicis precibus impediatur (ut in elevatione, post Sacrarum Specierum sumptionem, vel dum finem cantus expectat), minus quidem convenire videtur, ita ut praestet sola mente affectus divinos ciere; attamen pro peccato, etiam veniali tantum, id ducere non possumus." (Tomus 2^{us}, editio undecima, p. 192, No. 332, 9.)

Ecclesiastical Library Table

SOME LITURGICAL PUBLICATIONS OF 1931.

The number of works on Liturgy appearing during 1931 is very large. Excluding magazine articles and confining ourselves to books most likely to prove interesting or of practical utility to our readers, we would single out for mention the following:

1. Andrieu: *Les Ordines Romani du Haut Moyen Age* (Louvain: Spicilegium Sacrum Lovaniense). This is probably the outstanding liturgical study of the year, and one which has long been needed. The word "Ordo" had down to the twelfth century a meaning quite different from that which it bears now. It was what we should call a Ceremonial, i.e. a book containing directions for the performance of liturgical or sacramental functions (e.g., Migne, *P. L.,* CV, 1295). There are many Ordines surviving from the early middle age, but so far not all have been published and consequently students lacked some of the material for study. The first to be printed was the so-called *Ordo Romanus Vulgatus* (Cologne, 1561), which is more than an Ordo and by no means purely Roman. It was not until 1689, when Mabillon brought out in the second volume of his *Museum Italicum* a number of "Consuetudinaries" (reprinted in Migne, *P. L.,* LXXVIII), that anything like a beginning could be made. The work was taken up by Gerhart, Martène, de Rossi and others, notably in recent years by Duchesne in his *Origines dw Culte Chrétien.* But the need for a treatment such as that of M. Andrieu continued to be felt, and the present volume gives adequate ground for expecting that it is about to be met. For twenty-five years this professor of the University of Strasburg has been engaged on the task and this volume presents the first fruits of his labor. It contains lists of manuscripts, analyses, the conclusions he has arrived at, and copious indexes. Volume II, soon to appear, will present the texts critically edited. One need not stress the importance of this production.

2. De Puniet: *Le Pontificale Romain: Histoire et Commentaire* (Paris: Desclée, de Brouwer et Cie.) Another production of distinct scientific importance. The first volume, pub-

lished in 1930, contained a general study of the Pontifical and special studies of Confirmation and Ordination. The second volume, published in 1931, considers the chief remaining episcopal functions, ranging from the Consecration of a Bishop to the Blessing of Oils. Neither volume contains the texts of the functions, but this is not a drawback since the reader may be assumed to have access to a Pontifical; but the absence of an Index is to be regretted.

3. Balde: *Les Rogationes* (Paris: Flammarion);—conveys in charming style much information on a subject interesting to those who like to venture into liturgical bypaths. To most of our laity the Rogation Days mean simply nothing at all, since so few churches attempt to observe them with the required ceremony. This book will prove highly useful to a priest wishing to instruct his people on this interesting topic.

4. Hebert: *Leçons de Liturgie á l'Usage des Seminaristes* (Paris: Berche et Pagis).

5. Quigley: *The Divine Office* (Dublin: Gill).

These two we bracket together and recommend especially to seminarians. The former is a revised edition of a work already well known. The three volumes deal respectively with the Breviary and the Ritual, the Missal, and Solemn Functions. A translation into English is highly desirable. The latter is also a revised edition. It contains an appendix designed to stimulate devotion in the recitation of the Breviary.

6. Callewaert: *De Breviarii Romani Liturgia* (Bruges: Neyaert). Another book on the Breviary, and one that ought to find favor both with the "average" priest and with the priest who likes to delve into liturgical history. It is Volume II of the author's *Liturgicae Institutiones.* The first volume was a general introduction to liturgical study. The third, fourth and fifth volumes will deal respectively with the Roman Missal, the Roman Ritual, and the Liturgical Year. Monsignor Callewaert gives here some interesting matter on the relation of the Divine Office as arranged by St. Benedict to the Roman use of his day.

7. *Three Little Hours* (St. Paul, Minn.: The Leaflet Missal). Before leaving the Breviary we would say a word about this

little ten-cent pamphlet. It gives in English Terce, Sext and None and is intended for Grade Schools. It has already been successfully introduced among children and ought to be more widely known.

8. Cabrol: *The Mass: Its Doctrine, Its History* (New York: Kenedy).

9. Aloysius: *The Pocket Missal* (Dublin: Gill).

10. Aloysius: *Dona Eis Requiem* (Dublin: Gill).

11. Brady: *How to Use a Daily Missal in 1932* (St. Paul: The Lohmann Co.).

Dom Cabrol needs no introduction. This book is admirably done and the illustrations considerably enhance its value. Father Aloysius gives in *The Pocket Missal* the text of the Masses for Sundays and Holy Days, and in *Dona Eis Requiem* the services for the dead in Latin and English. Father Brady's book is an Ordo for the laity, and is indispensable to one desiring to follow the Mass intelligently and correctly but unskilled in the use of the Latin Ordo.

12. MacMahon: *Liturgical Catechism* (Dublin: Gill). A third edition. It is encouraging to see this excellent book making its way.

13. *Semaine Liturgique,* 1931 (Bruges: Desclée). It is now about twenty years since the annual Semaine Liturgique was instituted in Belgium. The meetings are held in various cities and the papers read are published each year. The volume for 1931 gives an account of liturgical activities in various countries, and while the writers do not hesitate to criticize adversely when such criticism seems called for, the picture they present is on the whole encouraging. It is at least a negative comfort to us of the United States to learn that, while we have not yet attained perfection, there are other lands that are no better off.

14. *Peregrinus Goes Abroad* (New York: Pustet). Those who have enjoyed in the pages of *The Acolyte* the shrewd and whimsical comments of that genial liturgiologist, " Peregrinus Gasolinus," will need no urging to renew the acquaintance.

15. Terry: *The Music of the Roman Rite* (London: Burns, Oates and Washburne).

16. Thuis: *Gregorian Chant* (St. Meinrad, Indiana: The Abbey Press).

Here are two books that ought to interest Catholic choirmasters. The former is by the well-known authority on ecclesiastical music, Sir Richard Terry, until recently choirmaster of Westminster Cathedral. It is even more valuable than his *Catholic Church Music,* published about twenty-five years ago and long out of print. He writes sanely and moderately. While advocating strict adherence to ecclesiastical legislation, he does not fall into the error of trying to be more Catholic than the Pope by spurning all church music not Gregorian. Father Thuis, who calls Gregorian Chant "a barometer of religious fervor", says within brief compass much that is stimulating.

17. *Liturgical Arts* (New York: The Liturgical Arts Society). Those concerned, professionally or non-professionally, with the esthetics of divine worship, will welcome with enthusiasm (many have already done so) this new quarterly, the first number of which appeared in December. The articles are of the highest quality and the illustrations, some of them in colors, are exceptionally fine. If the standard set by the initial number is maintained—and the names of those backing the venture are a guaranty that it will be—*Liturgical Arts* will prove to be in its special field a magazine of the very first importance. One notable feature is that the advertisements are endorsed by a committee. This ensures that the reader will not be distressed by finding that principles enunciated in the articles are flouted in the advertising pages, as happens sometimes in Catholic magazines. The article on "The Liturgical Construction of the Altar" is obtainable separately.

18. Herwegen: *The Art Principle of the Liturgy* (Collegeville, Minn.: The Liturgical Press). An excellent brochure by one of the contributors to *Liturgical Arts* and a master in the field.

19. Sitwell: *Spanish Baroque Art. With Buildings in Portugal, Mexico and Other Colonies* (London: Duckworth).

20. Ottmann: *Deutsche Malerei und Plastik des Barock und Rokoko* (Munich: Allgemeine Vereinigung für Christliche Kunst).

Here are two books which will prove very useful to architects and to persons concerned indirectly with architecture. Along with Wolfflin's treatise on Renaissance and Baroque Art (of which an Italian translation appeared in Florence in 1928) they cover the subject admirably.

21. Cingria: *La Décadence de l'Art Sacré* (Paris: L'Art Catholique). An interesting study, with a preface by Paul Claudel.

22. Jalabert: *L'Art Normand au Moyen Age* (Paris: Renaissance du Livre). A complete exposition of medieval Norman art—architecture (religious and secular), sculpture, glass work, etc.

23. Vallery-Radot: *Églises Romanes: Filiations et Échanges d'Influences* (Paris: Renaissance du Livre). A study of the relations between the various Romanesque structures in France and of their indebtedness to Lombard influence.

24. Brightman: *The Divine Liturgy of St. John Chrysostom* (London: Faith Press). It will suffice to call attention to this important reissue of one of the eminent liturgiologist's productions.

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Criticisms and Notes

RELIGIOUS LIBERTY IN TRANSITION. By Joseph F. Thorning, S.J. Benziger Brothers: New York. 1931. Pp. 252.

In America we have canonized the Fathers of the Revolution and of the Constitution. To believe that they were mortal men is tinged with heresy, and to depict them as they actually were is lese-majesty. Along with the laudation of men, there has been an unreasoning glorification of institutions and a creation of pleasant legends. As a rule, all worthy citizens believe that democracy came with the Revolution, that the Declaration of Independence carried no propaganda, that toleration was indigenous to the soil, that Church and State were separated when the federal Constitution was adopted, that there is no present connexion between Church and State, that the non-sectarian little red schoolhouse is an ancient institution, and that the suffrage was universally granted to the patriots of the Revolution. Indeed, President Hoover, who has been spared the title of a great historian by eulogist or detractor, declared, in 1930, that the separation of Church and State was the product of the Protestant Reformation. And so the man on the street thinks, despite the English, Scottish, and Scandinavian establishments, the pre-War churches of the German principalities, and the tedious campaign of minorities and sectaries in the American colony-states for toleration and finally for religious liberty, if not for an unattained social and political equality in the American polity.

Father Thorning in this readable book on *Religious Liberty in Transition*, originally a doctoral dissertation written under Doctors Richard J. Purcell, John A. Ryan and William J. Kerby at The Catholic University of America, outlines the long struggle by dissenting sects for legal toleration in the New England commonwealths. He is not harsh in his judgments, nor severe in his conclusions; he is restrained and scientific in the presentation of his material. And his material is as complete as his sources: documentary records, journals of constitutional conventions, monographs, contemporary newspapers, and memoirs. Nothing is left for faith. And Doctor Thorning's narrative cannot be waived aside by honest-minded students of ecclesiastical and New England history; and it should not be neglected by the occupants of New England pulpits and rectories.

In Massachusetts, legal toleration was finally won by 1833 after a painful, vituperative campaign of Democrats, Baptists, Methodists, and minor sectaries against the intrenched Standing Order Congre-

gationalists, who, fortunately for democracy, had been weakened by the Unitarian schism and the rise of a manufacturing interest more concerned with dividends than the maintenance of parsons' prerogatives. In Connecticut, a similar alliance won constitutional toleration in 1818. Rhode Island had an excellent record: toleration for all Protestants from the days of Roger Williams and the repeal of a law (1719) disqualifying Catholics from voting or office-holding in 1783. In New Hampshire the struggle is most interestingly followed through numerous conventions with their attempts to eliminate religious tests from the State Constitution. A century after the Declaration of Independence saw the State tolerant enough at heart, or at least courageously intolerant, and its constitution freed of most objectionable proscriptions. Yet an attempt as late as 1928 failed to remove the terms " Protestant " and " evangelical " from the Bill of Rights. Toleration is indeed of slow growth.

There is need of further lengthy studies of this sort by men of Dr. Thorning's scholarship, especially in New York, Maryland, and the Carolinas. There is opportunity for a number of essays indicating the bitter struggle—and as late as the nineties—in various states, before charitable and corrective institutions opened their doors to Catholic priests, before proselyting ceased in asylums, and before non-Protestant chaplains were named in state institutions. There are possibilities in tracing the slow growth of practical political toleration in various states long after legal toleration was won—political availability and social respectability. And one may wonder if Anglicanism does not retain some privileges even in federal institutions—for instance, at Annapolis or at West Point.

SYSTEMA SACRAMENTARIUM, quod ex Notionibus de Sacramentis in Genere exaravit et composuit Johannes Bapt. Umberg, S.J., Professor in Universitate Oenipontana. Felizian Rauch, Innsbruck. Pp. 120.

In a brief and very concise form the author has gathered together all the dogmatic and many moral questions generally treated by theologians in the treatise on the Sacraments in General. The Preface informs us that the author purposely refrains from introducing lengthy discussions on various topics, but contents himself with reference to the doctrine of the Church and the Fathers whenever possible. In matters of free discussion he purposes to put before the reader the conclusions most commonly taught in the theological schools. On the questions most frequently debated he expresses a preference for mere moral causality of the Sacraments and for determination " in specie " by our Lord of both matter and

form for all the Sacraments. No new arguments are advanced for these preferences.

The work is divided into four Chapters: De Esse Sacramentorum, De Necessitate Sacramentorum, De Sacramentorum Susceptione, De Sacramentorum Confectione et Collatione. The titles indicate in a way the topics contained under each. The book will prove a very serviceable volume for quick and ready reference to the doctrine of the Sacraments in General, even to those who hold opinions other than those of the author on controverted subjects.

ROMAN LITERARY THEORY AND CRITICISM, A STUDY IN TENDENCIES. By the Rev. J. F. D'Alton, Professor of Greek at St. Patrick's College, Maynooth. London: Longmans, Green and Co. 1931. Pp. vii + 608.

Professor D'Alton favored us some years ago with a very interesting book entitled *Horace and His Age*, in which among other matters he gave considerable space to questions of literary theory and criticism. In the present volume he gives us the fruits of his wider and deeper studies in this same field. As he tells us in his preface, his book does not pretend to be a systematic history of Roman literary theory and criticism. His purpose is rather to treat of certain phases only of this interesting and important subject. Thus, while justly recognizing the significance of Hellenistic influences on the Roman theory of style, he has not exhausted the possibilities of this side of the problem. Furthermore, he has not attempted to deal in a detailed and formal manner with literary theory and criticism in the silver and late periods of Latin literature. Wisely realizing, then, the impossibility of dealing adequately with such a vast subject within the limits of a single volume, he has confined himself to an exposition of literary theory and criticism among the Romans, from the beginning of their literature in a strict sense to the end of the Augustan age. Naturally, because of their fundamental importance for the whole question of Roman style, a considerable portion of the book is devoted to the study of the literary theories of Cicero and Horace. The following list of the chapter headings will give the reader some concrete idea of the arrangement and scope of the work: Ch. I. The Awakening of the Critical Spirit; II. Aspects of the Problem of Style; III. Cicero as a Critic; IV: Cicero and the Atticists; V. Ancients vs. Moderns; VI. Horace and the Classical Creed; VII. The Supremacy of Rhetoric; VIII. A Retrospect. The work closes with a valuable Bibliography and a good Index.

Professor D'Alton has given us an excellent volume. His treatment of the subject of Roman literary theory and criticism within

the limits he has set for himself reveals a thorough and first-hand acquaintance with all the ancient sources and with the pertinent modern literature, not only in English, but in French, German, and other languages. In his handling of a truly formidable mass of material he has shown that he possesses fine power of discrimination and penetrating judgment in literary matters himself. Where he ventures to dissent from any modern investigators on controverted points, his argument is sound and convincing.

The book is warmly to be recommended to all students of the Greek and Latin literatures. A careful reading of it will give them a deeper insight into the place of style in antiquity, and will lead them to a better understanding and appreciation of the ancient writers. If one has not the time or the inclination to read the whole book, one should at least read the excellent chapter entitled the Supremacy of Rhetoric. In spite of the great services rendered by works like Norden's *Antike Kunstprosa*, the prominent place of rhetoric in Graeco-Roman antiquity is not yet as fully realized as it should be.

S. AGOSTINO, PUBBLICAZIONE COMMEMORATIVA DEL XV CENTENARIO DELLA SUA MORTE. (Revista di Filosofia Neoscholastica, supplemento speciale al volume XXIII.) Milan. 1931.

Among the many contributions occasioned by the commemoration in 1930 of the fifteen hundredth anniversary of the death of St. Augustine, the present volume deserves a conspicuous place. Prepared under the auspices of the Faculty of Philosophy in the Università Cattolicà del Sacro Cuore at Milan, it is a peculiarly fitting tribute, thus coming as it does, from the city in which Augustine as a brilliant professor of rhetoric came under the influence of the great St. Ambrose and was eventually won for the Faith. After a reprint of our Holy Father's beautiful Encyclical on St. Augustine, *Ad salutem humani generis*, the book contains a number of essays on various phases of the great Doctor's life, writings, and influence. It will be worth while to indicate here at least the articles of primary interest to theologians, as valuable contributions in commemorative volumes are often overlooked: Agostino Gemelli, O.F.M., L'agostinianesimo eterno, pp. 24-30; Amato Masnovo, L'ascesa verso Dio in S. Agostino, pp. 31-41; Mario Casotti, Il "De Magistro" di Sant'Agostino, e il metodo intuitivo, pp. 57-74; Romano Amerio, Forme e significato del principio di autocoscienza in S. Agostino e Tommaso Campanella, pp. 75-113; Francesco Pelluzza, la causalità della grazia efficace nel pensiero di S. Agostino, pp. 167-181;

Arcangelo Galli, O.F.M., Saggio sulla analisi psicologica dell'atto di fede in S. Agostino, pp. 182-219; Umberto A. Padovani, La città di Dio di S. Agostino; teologia e non filosofia della storia, pp. 220-263; Andrea Oddone, S.J., La dottrina di S. Agostino sulla menzogna e la controversia con S. Girolamo, pp. 264-285; Francesco Olgiati, L'antiagostinismo di Giansenio, pp. 286-304; Melchiorre Roberti, Contributo allo studio delle relazioni fra diritto romano e patristica tratto dall'esame delle fonte Agostiniane, pp. 305-366.

This list of the more important articles in the volume will give some idea of its interest and value. A careful examination of a number of them by the reviewer has shown them to be of uniformly high quality and scholarship. The book reflects high credit on the members of the Faculty of Philosophy at the Catholic University of Milan and they certainly deserve our congratulations for the publication of the excellent work.

Literary Chat

The National Advisory Committee on Education issued recently a two-volume Report of its work. The Committee was organized in 1929 by Secretary Wilbur, acting for the President. It consists of fifty-two members representing important educational associations in the United States. The Report deals with the fundamental relations of Federal Government to Education. The majority report recommended "that a Department of Education with a Secretary of Education at its head be established in the Federal Government". A minority report, submitted by Monsignor Pace and Dr. George Johnson, dissented. Since the Report goes into fundamentals it will have a permanent interest for all who are concerned with the larger tendencies of education in the United States. Under certain restrictions the Report is distributed without charge. Otherwise it may be obtained at a nominal cost by addressing the National Advisory Committee on Education, 744 Jackson Place, Washington, D. C.

Many marked tendencies in modern thought give promise of real service throughout the general process of education, if one takes the word in its widest sense and does not confine its meaning to academic walls. One tendency is that of popularizing the results of modern research. When men eminent in that field are induced for whatsoever reason to describe methods and results in simple language, they contribute greatly to the advancement of culture.

Another tendency is found in the development of orientation courses which break away from departmental narrowness and release the student mind into the freedom of a large outlook upon the world of truth. And a third tendency, inevitable because of the amount of fundamental thinking on all sides, is to familiarize us with elementary notions. A fairly discerning reader of newspapers and magazines, an intelligent listener over the radio, one who watches the list of cultural lectures in our greater cities—all these are within reach of more sources of refinement and insight than a genius could have known a century ago.

These remarks are made apropos of a little volume in which a scientist of distinction offers to his readers guidance among the fundamentals of modern thought. (*Modern Science and the Truths Beyond.* A Popular

Outline of Philosophy in Relation to Scientific Problems of Today. By Abbé Th. Moreux, Director of Bourges Observatory. Translated from the French by the Rev. Michael Fitzsimons, O.M.I. Foreword by the Rev. T. Corcoran, S.J., Benziger Brothers, N. Y.; pp. 240.) Philosophy, Sensation, Reasoning, Freedom, Matter and Energy, Space and Time, God and the Universe, the Origin of Life, the Moral Order and Immortality are the thought lanes along which the author guides his reader. He adopts a critical attitude toward evolution which he thinks could not have been "progressively continuous" between plant life and human life. He says, however, "within the limits already defined the evolutionist theory may be admitted without philosophical contradiction; as such it becomes a scientific hypothesis pure and simple, until such time as the supporters of evolution can furnish more evident proofs".

The Rev. J. W. Brady continues his activity in interpreting and commending the Liturgy. In his little pamphlet, *How to Use a Daily Missal in 1932*, he publishes the Ordo for the entire year. An ingenious diagram explains the use of the colors of the vestments very effectively. (E. M. Lohmann, St. Paul, Minn. Pp. 55.)

The Rev. Robert Eaton of the Birmingham Oratory has just given us his sixth volume on the spiritual life. (*The Sword of the Spirit.* B. Herder Book Company, St. Louis; pp. 185.) The chapters are set at the high level of appeal to the better self that stirs to generous interpretations of spiritual obligation and effort.

Born at Le Havre in 1889, called to an eternal reward in 1918, Marie-Antoinette de Geuser is the subject of a biography by Father Raoul Plus, S.J., that is of very great interest. It was written originally in French. The translation at hand is by George Baker. (*Consummata,* Benziger Brothers, New York; pp. 337.) One hundred and ninety pages are devoted to a biographical sketch. The remainder of the volume is given to the spiritual writings of Consummata, extracts from an intimate journal kept by her and from her correspondence. Two of her uncles were Jesuits, the Fathers Grandmaison. One of them was her director, and the other, the distinguished and scholarly author and editor. Cultural traditions in her home, lively temperament, constant suffering, defeated hope of entering the Carmelite community, contact with the World War which drew her brothers into its appalling dangers, intense realization of spiritual truth, a facile pen, lively imagination and flawless consecration to God, met in this extraordinary life in a way that confers upon it a haunting charm. Consummata went far on the mystical pathway that leads to God. Some of our readers may like to know the following taken from a prayer written when Consummata was very near to what she called playfully "her first death": "May my weakness bless him; may my silence magnify him; may my suffering utter to him my love; may my life hidden wholly in him leave upon this earth seeds quick with truth and love." The title of the work is taken from the last word which Marie uttered as she died.

The Rev. William J. V. Boyle has published a volume of essays in which he brings a pleasant note to the treatment of many commonplace aspects of personal and social life. (*The Modern Tower of Babel and Other Essays.* The Peter Reilly Company, 133 North 13th Street, Philadelphia; pp. 309.) The introduction is a sketch of the average parish rectory. The St. Michael's parish that is central in his thought is any one of ten thousand parishes where pastors do their quiet work in ministering to souls.

Father Edward F. Garesché, S.J., publishes in his prayer book *Moments with God,* a new series of original prayers intended to express familiar spiritual emotions and to direct petition toward the needs and aspirations of the Christian heart. In addition, one part contains the text of indulgenced prayers and hymns. The third part contains prayers in common use, the Proper of the Mass for the year and the Epistles and Gospels. The

copy at hand is an excellent specimen of book-making. It is issued in three bindings with corresponding prices. (The Bruce Publishing Company, Milwaukee; pp. 207.)

Another of the publications of the Bruce Publishing Company, Milwaukee, contains a sketch of the life of Father Maurice of St. Joseph, a Passionist Father who died at Buenos Aires in 1894. (*A Knight of the Cross.* By Helen Grace Smith. Pp. 219. Preface by the Rev. Edward Hawks.) Father Maurice was born in 1857, Theodore Dehon Smith. He was a younger brother of the illustrious Walter George Smith and an older brother of the author of this excellent story of his consecrated life.

One will search the whole range of our American Catholic history for a parallel of his total self-renunciation, as it shines out of his beautiful letters to his father, General Thomas Kilby Smith, to his devoted mother, to his companion brother, Walter George, to his sister Grace, who is the author of the book, and to the other members of his family. These touching letters reveal the holy courage of a true man of God.

Our readers will recall, in this connexion, the biography of James Kent Stone, *Fidelis of the Cross,* which was written by Walter George Smith and Helen Grace Smith, and which has already passed into a third edition. (G. P. Putnam's Sons, New York.)

A chance contact with Father James Kent Stone, then a Paulist, later a Passionist Father, led Maurice to the Passionist community, which he entered in 1878. The strength of his vocation was indicated by his overcoming the most determined opposition of his family, chiefly on the score of his health. The story of Father Maurice's education and experience before and after ordination is edifyingly and attractively told and is typical of those who follow the call of Christ to complete renunciation. Never robust, Father Maurice had hoped that the South American missions might give him an opportunity of priestly service and perhaps improve his health. Death took him away soon however. The testimonies gathered in the story of his life show him to have been a rare soul and ideal religious.

The Temple Chant that echoes the heavenly music of the prophetic Jerusalem toward which we are journeying through the Catholic Church on earth, is being taught and illustrated by practical lessons, as has been done during past years, in the *Pius X School of Liturgical Music,* at the College of the nuns of the Sacred Heart (133 Street and Convent Avenue, New York). A recent prospectus announces the Summer School course for 1932. The Faculty of fifteen instructors includes the Benedictine Dom Stephen Thuis and Father Thos. F. Dennehy, under the direction of the venerable Mother Stevens of the Society of the Sacred Heart, to whose energetic activity is mainly due the growth of the School. Following the Justine Ward method, according to the principles of Solesmes, the classes include, besides Plain Chant, also Polyphonic Singing, Teaching in School, Training of Boys, and Instrumental Accompaniment. The Summer session is to be opened on 5 July and will end on Saturday, 13 August. The value of these instructions for priests and seminary students has been frequently pointed out in former years by the REVIEW.

The Rev. Francis Shea, C.P. has published in book form a series of devotional studies of the Sacred Passion of our Lord which appeared originally in *The Sign.* (*Under His Shadow.* The Sign Press, Union City, New Jersey. Pp. 242.)

The Rev. Daniel M. O'Connell, S.J., has brought together thirty of the sermons of Cardinal Newman in an attractive volume. (*Favorite Newman Sermons.* Bruce Publishing Company, Milwaukee. Pp. 413.) All lovers of Newman will wish that this collection may win many members to that invisible society spread throughout the world that finds a common bond in the love of the great Cardinal. Perhaps the ideal would require that a reader of Newman's Sermons should compile his own list of them in the

order of their excellence. If such an attempt were made on a large scale one would undoubtedly find all or nearly all of Father O'Connell's choices in most of the lists. It is the great merit of Newman's sermons that they relate a superb analysis of mental and emotional processes to revealed doctrine and spiritual ideals. There are some who seem to think that preaching can be carried on successfully without serious attention to the intricacies of human thought and feeling. Newman seemed to approach his understanding of Holy Scripture from the standpoint of human nature and in turn to look out upon the latter from the standpoint of Scriptural teaching. This gives him universal and enduring appeal. The Sermons may well be used for spiritual reading. The whole cycle of Newman's spiritual thought is recapitulated in the *Newman Synthesis* of Father Erich Przywara, S.J., though much of the fervor and personal appeal of the sermons is necessarily omitted in this systematic exposition. It would be a great service to the memory of Newman and to priests if someone qualified to do so would construct a manual of the spiritual life out of Newman's Sermons. His meditations and devotions will always retain a distinctive charm. But the Sermons penetrate more deeply into the heart of the reader and lead him to a quality of self-knowledge that is one beginning of wisdom.

A convenient little volume available for those who make their retreats privately, has been prepared by the Rev. Winfrid Herbst, S.D.S. (*My Retreat Master.* Bruce Publishing Company, Milwaukee. Pp. 214.) Three short meditations and one consideration are given for each day. The author has followed well-established traditions in the sequence and tone of his meditations. While some details are intended primarily for members of a religious community, the little work would be helpful for all priests.

The booklet of the Rev. F. J. Remler, C.M., *Why Must I Suffer,* has just appeared in its fifth edition. (The Franciscan Herald Press, 1434 West 51st Street, Chicago. Pp. 90.) The author sets forth fifteen reasons in answer to his question. They cover the interpretations that are found throughout traditional Catholic teaching. However, the manner of presentation gives many of the reasons a sharpness of definition that wins and holds attention. The mystery of suffering will always baffle reason and challenge faith. And perhaps there are few of us who will not take refuge in trustful acceptance of the Will of God when explanations of suffering are inadequate. The reader who cannot follow the author in all that he says will find wisdom in very much that he says. There are perhaps those who will not follow the author in the following. "The sight of the good suffering for sins which they did not commit is apt to promote the conversion and salvation of the wicked by vividly reminding them of the more rigorous chastisements inflicted for sins in the next life. If sin is punished so severely upon the good here on earth, how much more severely will it be punished upon unrepentant sinners in eternity."

The Franciscan Herald Press has brought out also a lively and pleasant sketch of *St. Anthony of Padua* by Alice Curtayne. (Pp. 115.) It contains an excellent sketch of his personality and of his extraordinary qualities as a preacher. The author employs many of the legends about St. Anthony to convey a helpful picture of the kind of man that he was and of the impression that he made upon his time.

Priests who have found so very valuable Father J. Grimal's meditations, entitled *Avec Jésus formant en Nous Son Prêtre,* will welcome the announcement that the Rev. Dr. Gerald Shaughnessy, S.M., has prepared and adapted an English version of the work. The volume, of approximately 600 pages, will appear during the first week of May, in good time for this year's clerical retreats and as a capital gift to the newly ordained priest in early summer. (Dolphin Press, 1722 Arch St., Phila.)

The work, which has already passed through six editions in the original, has won recognition as the most personal of manuals for priests, both religious and diocesan, seeing that it contemplates, under various aspects, Jesus Christ, the Eternal Priest, model of the Priesthood, the unique Teacher, who consecrated the three years of his public ministry almost exclusively to the training of His first priests, the Apostles. Thus these meditations are addressed intimately, exclusively, personally to the priest, whether in the first formative years of his priestly life or in the later years of his ministry—for what priest is ever emancipated from the school of the Master, the Eternal Priest?

As we go to press, still another publication reaches us from the presently very active Bruce Publishing Company of Milwaukee. It is a brochure of only two-score pages, in paper cover, entitled *May Thoughts.* These pious reflexions are arranged for daily devotions to Our Lady during the month of May, and are adapted from the German of R. M. Hoeller. Such considerations as the following are assigned for each day: Patience, Silence, Hope, Prayer, Mortification, Spiritual Dryness.

Books Received

THEOLOGICAL AND DEVOTIONAL.

HOLY MASS. An Explanation of the Spiritual and Doctrinal Meaning of the Mass and Its Ceremonies. Freely adapted from the translation of Ottilie Boediker by the Rev. Winfrid Herbst, S.D.S., author of *Talks for Boys and Girls.* With 19 Mass pictures after original drawings and 28 other illustrations accompanying the text. Benziger Brothers, New York, Cincinnati, Chicago, San Francisco. 1932. Pp. x—246. Price, $1.10 *postpaid.*

FAVORITE NEWMAN SERMONS. Selected from the Works of John Henry Cardinal Newman by Daniel M. O'Connell, S.J., Editor of *Newman's Present Position of Catholics in England, Idea of a University, Apologia pro Vita Sua, A Comparative Study of the 1864 and 1865 Apologia.* Bruce Publishing Co., Milwaukee, Chicago, New York. 1932. Pp. xiv—414. Price, $3.00.

LITTLE OFFICE OF THE BLESSED VIRGIN MARY. With a Brief Commentary by Sister M. Mildred, O.S.F. Bruce Publishing Co., Milwaukee, Chicago, New York. 1931. Pp. x—396. Price, $1.75.

THE CHURCH UNCONQUERABLE. By Owen Francis Dudley. Queen's Work, St. Louis. 1932. Pp. 24. Price, $0.10; 50 copies, $4.00; $7.00 a hundred.

THE CROSS-ANNUNCIATION. By A. M. Mayer, O.S.M. Poems by Jesse B. Hornung. Sanctuary of Our Sorrowful Mother, Dolores Ave., Portland, Oregon. 1931. Pp. xi—325.

ST. ANTHONY OF PADUA. By Alice Curtayne, author of *St. Catherine of Sienna, A Recall to Dante,* etc. Illustrations by Sean MacManus. American edition. Franciscan Herald Press, Chicago. 1932. Pp. vii—118. Prices: $0.75 and $1.25.

MY RETREAT MASTER. An Eight-Day Private Retreat for Religious. By the Rev. Winfrid Herbst, S.D.S. Bruce Publishing Co., Milwaukee, Chicago, New York. 1932. Pp. x—214. Price, $2.00.

LETTRES SPIRITUELLES DE SAINT JÉROME. Par Denys Gorce, Docteur en médicine, Docteur ès-lettres. I: La Doctrine Spirituelle. (*Bibliothèque Patristique de Spiritualité.*) J. Gabalda & Fils, Paris. 1932. Pp. 223. Prix, 11 *fr. franco.*

THE SWORD OF THE SPIRIT. Chapters on the Spiritual Life. By Robert Eaton, Priest of the Birmingham Oratory. Sands & Co., London and Edinburgh; B. Herder Book Co., St. Louis. 1931. Pp. 185. Price, $1.35 *net.*

ORIGÈNE: DE LA PRIÈRE ET L'EXHORTATION AU MARTYRE. Introduction, traduction et notes par G. Bardy. (*Bibliothèque Patristique de Spiritualité.*) J. Gabalda & Fils, Paris. 1932. Pp. 287. Prix, 13 *fr. franco.*

LE BANQUET DES DIX VIERGES. Par Saint Méthode d'Olympe. Traduction par Jacques Farges, Docteur ès lettres, Docteur en Théologie. (*Bibliothèque Patristique de Spiritualité.*) J. Gabalda & Fils, Paris. 1932. Pp. 205. Prix, 10 *fr. franco.*

CHOIX D'ÉCRITS SPIRITUELS DE SAINT AUGUSTIN. Traduction nouvelle par Pierre de Labriolle, Professeur à la Sorbonne. Avec une Introduction sur *l'Ame de Saint Augustin.* (*Bibliothèque Patristique de Spiritualité.*) J. Gabalda & Fils, Paris. 1932. Pp. 189. Prix, 9 *fr. franco.*

MARIE MADELEINE. La Sainte Amante de Jésus. Par Abbé Maurice Bessodes. Marius E. Marietti, Turin et Rome. 1932. Pp. viii—136. Prix, 7 *frs.*

DE BONIS ECCLESIAE TEMPORALIBUS (Cod. I.C., Lib. III, P. VI). Marius Pistocchi, Archipresbyter Ecclesiae Cathedralis Foroliviensis. Marius E. Marietti, Taurini, Italia. 1932. Pp. viii—489. Pretium, 15 *L.*

LA CHASSE AUX BÉVUES. Erreurs et ignorances religieuses. Par Chanoine Eug. Duplessy, Directeur de *La Réponse.* Pierre Téqui, Paris-VI^e^. 1932. Pp. 228.

VOM GUTEN MENSCHEN. Von Peter Lippert, S.J. B. Herder Book Co., Freiburg im Breisgau and St. Louis. 1931. Pp. vii—359. Price, $1.75 *net.*

COURS DE RELIGION EN FORME DE PETITS PRÔNES. Par Chanoine E. Duplessy, Directeur de *La Réponse.* Première Série: Les Vérités à croire, 52 Lectures. Pierre Téqui, Paris-VI^e^. 1932. Pp. viii—160.

AVE MARIA HYMNAL. Vol. II: Liturgical Section. A Collection of the Liturgical Chants for Services on Week Days. Arranged Chiefly for the Use of Children's Choirs, both in the Vatican and Mensurated Settings—Compiled, Composed, Arranged, and Edited by the Rev. Jos. Pierron. Bruce Publishing Co., Milwaukee. 1931. Pp. 159. Price, $0.56.

POR QUÉ SOY CATÓLICO? O Apologética Elemental. Por el Presbítero Nicolás Marín Negueruela, Profesor de Teología y Apologética. Segunda edición. Tipografia Católica Casals, Barcelona. 1931. Pp. viii—196. Precio, 5 *ptas.*

GERBE DE MERVEILLES. Par Dom G. Meunier, moine bénédictin. Pierre Téqui, Paris-VI^e^. 1931. Pp. x—141.

LA VIE MYSTIQUE DE SAINT PAUL. Le Contemplatif; le Docteur; l'Amant du Christ. Par Chanoine Henri Morice, Docteur ès-lettres, Lauréat de l'Académie Française. Pierre Téqui, Paris-VI^e^. 1932. Pp. xiv—250.

AME DE PRETRE, le R. P. Henri Jalaber, de la Congrégation de Jésus & Marie, dite les Eudistes. Par le R. P. Em. Georges, de la même Congrégation. Deuxième édition. Pierre Téqui, Paris-VI^e^. 1932. Pp. vi—243.

POUR ÉTUDIER LE CODE DE DROIT CANONIQUE. Par F. Cimetier, Supérieur du Séminaire Universitaire de Lyon. Introduction Générale, Bibliographie, Réponses et Décisions, Documents Complémentaires. Premier Supplément (1927-1931). J. Gabalda & Fils, Paris. 1931. Pp. 64.

DOCUMENTA ECCLESIASTICA CHRISTIANAE PERFECTIONIS Studium Spectantia collegit Iosephus De Guibert, S.I., Professor in Pont. Universitate Gregoriana. (*Pontificia Universitas Gregoriana.*) Romae: apud Aedes Universitatis Gregorianae. 1931. Pp. xv—562. Pretium, *Lib. ital.* 25.

LE CHRIST TOTAL. Catechisme de Persévérance en deux années d'après le nouveau programme du diocèse de Paris. Par Elie Maire, Docteur, en théologie, Lauréat de l'Académie Française, Ex-Aumônier au Collège Stanislas. II: L'Église. Préface de M. l'Abbé C. Quinet, Inspecteur de l'Enseignement religieux au diocèse de Paris. Pierre Téqui, Paris–VI^e^. 1932. Pp. 167.

PHILOSOPHICAL.

THE UNEMPLOYMENT PROBLEM. A Catholic Solution from the Viewpoints of Ethics, History and Social Science. By Thurber M. Smith, S.J., LL.B., Ph.D., Professor of Philosophy, St. Louis University. (*Science and Culture Series.* Joseph Husslein, S.J., Ph.D., General Editor.) Bruce Publishing Co., Milwaukee, Chicago, New York. 1932. Pp. xix—218. Price, $2.00.

AMERICAN OPINION ON THE UNIFICATION OF ITALY, 1846-1861. By Howard R. Marraro. Columbia University Press, New York. 1932. Pp. xv — 345. Price, $3.50.

CONTEMPORARY PHILOSOPHY AND THOMISTIC PRINCIPLES. By the Rev. Rudolph G. Bandas, Ph.D.Agg. ("Angelico", Rome), S.T.D. et M. (University of Louvain), author of *Catechetical Methods, The Master-Idea of St. Paul's Epistles or the Redemption,* etc., Professor of Dogmatic Theology, St. Paul Seminary, and of Catechetics, Diocesan Teachers' College, St. Paul, Minn. With an Introduction by the Rev. J. S. Zybura, Ph.D., author of *Present-Day Thinkers and the New Scholasticism, Contemporary Godlessness—Its Origins and Its Remedy, The Problem of Evil and Human Destiny, The Key to the Study of St. Thomas, Progressive Scholasticism, Introduction to the Theological Summa of St. Thomas.* Bruce Publishing Co., Milwaukee, Chicago, New York. 1932. Pp. viii—468. Price, $4.50.

LA CRÉATION ET L'ÉVOLUTION. La Révélation et la Science. Par J. Paquier, Docteur ès lettres, en philosophie de saint Thomas et en théologie, Curé de Saint-Pierre de Chaillot. J. Gabalda & Fils, Paris. 1932. Pp. 367. Prix, 15 *fr.*

ÉTUDES SUR LE PROBLÈME DE DIEU DANS LA PHILOSOPHIE CONTEMPORAINE. Par Régis Jolivet, Professeur aux Facultés Catholiques de Lyon, Docteur ès lettres. Emmanuel Vitte, Lyon et Paris. 1932. Pp. 241.

CATHOLIC CHARITIES IN UNITED STATES, HISTORY AND PROBLEMS. By John O'Grady, Ph.D., LL.D., Professor of Sociology at Catholic University and Trinity College, Washington, D. C.; Secretary, National Conference of Catholic Charities. With Introduction by Bishop Shahan. N. C. C. C., Washington, D. C. 1931. Pp. 475.

A CHEERFUL ASCETIC AND OTHER ESSAYS. By James J. Daly, S.J., Professor of English, University of Detroit. (*Science and Culture Series.* Joseph Husslein, S.J., Ph.D., General Editor.) Bruce Publishing Co., Milwaukee. 1931. Pp. vii—147. Price, $1.75.

THE MODERN TOWER OF BABEL AND OTHER ESSAYS. By William J. V. Boyle. Peter Reilly Co., Philadelphia. 1932. Pp. viii—309. Price, $2.00 *net.*

PARENT AND CHILD. By the Rev. Edgar Schmiedeler, O.S.B., Ph.D., Family Life Section, Social Action Department, N. C. W. C. Paulist Press, New York. Pp. 32. Price, $0.10; 20 copies, $1.00; $3.50 a hundred; $30.00 a thousand.

THE BOW IN THE CLOUDS. An Essay toward the Integration of Experience. By E. I. Watkin. (*Essays in Order*: 4.) Macmillan Co., New York. 1932. Pp. xi—174. Price, $1.75.

COSMOLOGY: A CROSS-SECTION. Footnotes in the Philosophy of Nature. By Daniel C. O'Grady, M.A., Ph.D., of the Department of Philosophy, in the University of Notre Dame; co-author of *Introduction to Metaphysics.* Graphic Publishers, Ltd., Ottawa, Ont., Canada. 1932. Pp. 270.

VITAL REALITIES. By Carl Schmitt, Nicholas Berdyaev and Michael de la Bedoyère. (*Essays in Order*: 5, 6 and 7.) Macmillan Co., New York. 1932. Pp. 275. Price, $2.00.

THE CHRISTIAN SOCIAL MANIFESTO. An Interpretative Study of the Encyclicals *Rerum Novarum* and *Quadragesimo* of Pope Leo XIII and Pope Pius XI. By Joseph Husslein, S.J., Ph.D., Dean, School of Sociology, St. Louis University; author of *Democratic Industry, The World Problem*, etc. Bruce Publishing Co., Milwaukee. 1931. Pp. xxiv—328.

HISTORICAL.

A SHORT HISTORY OF THE POPES. Based on the Latest Researches. By Professor Francis X. Seppelt, D.D. and Professor Clement Löffler, Ph.D. Authorized adaptation from the German by Horace A. Frommelt. Edited by Arthur Preuss. B. Herder Book Co., St. Louis and London. 1932. Pp. vi — 567. Price, $5.00 *net.*

A KNIGHT OF THE CROSS. By Helen Grace Smith. Preface by the Rev. Edward Hawks. Bruce Publishing Co., Milwaukee. 1932. Price, $3.00.

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